



DELAWARE STATE LOTTERY

INSTANT GAME TICKETS and RELATED SERVICES

Request for Proposal

DSL 2011-1

JULY 11, 2011

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PART 1 – RFP CONTENT

1.0 Introduction

The Delaware State Lottery (hereinafter referred to as the “Lottery” or "DSL") is issuing this Request for Proposals (RFP) to secure competitive proposals to provide the DSL with products, equipment and related services required to implement and operate instant ticket games. This RFP is issued under the terms of the Delaware procurement provisions in 29 Del. C. §§6981 and 6982 and all applicable Delaware laws.

The Successful Vendor will be expected to provide the following, subject to DSL approval, under a Cooperative Services Program:

1. Design, printing and production of instant lottery games, including proposed quantities, price points, rules and regulations, prize structures and delivery;
2. Full-time, in-state, dedicated personnel consisting of one (1) Marketing Manager, three (3) Field Marketing Representatives, and one (1) technical specialist available to provide support and problem resolution for the proposed instant ticket games management system during all business hours;
3. A staffing and services program providing adequate administrative and operational support for all other requirements of the RFP including, but not limited to: In-state Telemarketing services to provide a weekly telephone call to each licensed retailer for retailer instant ticket orders placement; In-state warehousing and inventory control of instant tickets; Weekly scheduled and on-demand instant ticket delivery and pick-up from retailers; Other staff or contracted services required for day-to-day operation and related services as described in the RFP
4. Consultation with the DSL relating to operations and marketing throughout the life cycle of all games;
5. Promotional and research allowance not to exceed \$50,000 per contract year to the Lottery for programs mutually agreed to by the DSL and the Successful Vendor;
6. Proposed back office validation and accounting system compatible with the DSL’s current accounting/reporting procedures and methods;
7. Security planning and execution, including independent testing of instant tickets;
8. Coordinating with the DSL and/or other DSL vendors on warehousing and distribution implementation plans and on other system compatibility issues as required;

9. Travel expenses for up to two (2) DSL employees for up to two (2) trips per year for press proof approval and/or security inspections;
10. Trademark search and clearance for all instant games at the Successful Vendor's expense; and
11. Acting as the DSL's agent in the procurement of licensed properties.

1.1 Lottery Objectives

The DSL has the following objectives in issuing this RFP and entering into a contract with the Successful Vendor:

- A. To maximize the net proceeds from the sale of DSL instant game tickets for the State of Delaware;
- B. To design, print, manage and market secure instant games consonant with the dignity of the State and the general welfare of the people;
- C. To develop efficient instant game support services which assure state-of-the-art technology, product knowledge and availability to all DSL retailers and players throughout the State;
- D. To market DSL instant games that are fun, exciting, easy to play, and offer players a variety of products to play and prizes to win;
- E. To contract with a Vendor that is sufficiently flexible to adapt to the DSL's changing needs over the term of the contract; and
- F. To begin providing instant games under the new contract by December 2011.

1.2 Overview of the RFP

This Request for Proposals (RFP) will provide the information necessary to submit Proposals. **Part One** provides background and Proposal preparation information. **Part Two** defines terms and conditions that will apply to the Contract. **Part Three** contains technical and business specifications. **Part Four** defines how pricing must be submitted. **Part Five** describes evaluation criteria, how Proposals will be evaluated, and the proceedings leading to execution of a Contract with the Successful Vendor.

1.3 Issuing Officer

The Issuing Officer, acting on the DSL's behalf, is the sole point of contact with regard to all procurement matters relating to the RFP, from the date of release of this RFP until the DSL's notice of Contract award.

All communications concerning this procurement must be addressed in writing to the Issuing Officer:

Mr. Vernon Kirk, Deputy Director
Delaware Lottery
1575 McKee Road
Dover, Delaware 19904
Office: (302) 744-1604
Cell: (302) 362-5581
FAX: (302) 739-6706
Email: vernon.kirk@state.de.us

1.4 Contracting Officer

The Contracting Officer shall act on the DSL's behalf for all contractual matters. The Contracting Officer is:

Mr. Wayne Lemons, Director
Delaware Lottery
1575 McKee Road
Dover, Delaware 19904

1.5 Restrictions on Communication with Lottery

Other than to the Issuing Officer, the Vendors nor their agents, representatives or lobbyists shall make any unsolicited contact with DSL staff, or their representatives, regarding this RFP. Prior to signing a Contract, Vendors shall not represent themselves to any parties as having the endorsement of the DSL, nor as the DSL's next supplier of instant game products and services. For Vendors currently doing business with the DSL, any communication regarding this RFP is prohibited except as provided for in this RFP. Any Vendor causing or attempting to cause a violation or circumvention of this ethical standard may, in the sole discretion of the DSL, be disqualified from further consideration.

1.6 Schedule

The following dates are established for informational and planning purposes. The DSL reserves the right to change any of the dates.

Event	Date
RFP issued	July 11, 2011
Vendors submit written questions by 3 p.m. EST	July 22, 2011
Lottery answers issued in Addendum	July 29, 2011

Proposal Submissions	by 3 p.m. EST	August 19, 2011
Vendor Presentations at Lottery		August 29 - 31, 2011
Recommendation to DSL Director		September, 2011
Apparent Successful Vendor Named		September, 2011
Anticipated Contract Execution		November, 2011

1.7 Vendor Questions and Clarification of RFP

Questions relevant to this RFP must be mailed, faxed, or e-mailed to the Issuing Officer at the location set forth in Section 1.3. Vendors must observe the time schedule for submitting questions. This schedule will ensure that the DSL has adequate time to respond to all questions and that the responses will be provided to Vendors in time to be incorporated into their Proposals.

Vendors are cautioned **that an RFP inquiry shall be written in generic terms and must not contain cost information.** The inclusion of specific cost in an inquiry may result in the Vendor's disqualification.

A copy of all questions, the DSL's responses, and any changes in the RFP resulting from such inquiries will be documented in published addenda communicated to Vendors directly by e-mail with delivery receipt requested. In addition, the RFP and any addenda to the RFP will be posted on the State's Bid Solicitation Directory at <http://bids.delaware.gov>, as well as on the website of the Delaware State Lottery at <http://delottery.com/rfps.asp>.

Written acknowledgement of all addenda issued prior to the Proposal due date shall become part of the Vendor's Proposal.

1.8 Vendor Conference

No Vendor conference will be held. The Request for Proposal and its clarifications and amendments will suffice for proposal preparation.

1.9 Vendor Presentations

The Lottery requires proposing Vendors to make an oral presentation of their proposal. These presentations may last up to two hours each and are being scheduled for August 29 - 31, 2011. Presentations will be held at the Lottery Office, 1575 McKee Road, Suite 102, Dover Delaware 19904. See **Section 5.6** for details.

1.10 Proposal Format

The Proposal must be submitted in two (2) separate volumes and received by the DSL no later than the date and time provided in **Section 1.6**. All responses must be submitted in a sealed package, which must be identified on the outside of the enclosure with the Vendor's full name and address. The sealed package must be specifically addressed to the Lottery's Issuing Officer and note the specific procurement: **DSL 2011-1**.

Proposals that are unsealed, unsigned, or otherwise materially non-conforming may be declared non-responsive.

1.10.1 VOLUME I – Narrative/Technical (Non-Price) Proposal

The Narrative/Technical Proposal shall include descriptive and technical matter only and must be appropriately labeled on the outside of the enclosure with the Vendor's name and address. **No cost figures shall be contained in this Volume.**

The original plus six (6) copies of the narrative /technical proposal, except as otherwise instructed in this RFP, must be addressed to the Lottery's Issuing Officer. In addition, the Narrative/Technical Proposal must be submitted on a CD using a Microsoft Word or PDF file.

The contents of the technical (non-price) volume must follow this outline, employing divider pages with tabs to separate the response sections:

1. Transmittal Letter. The transmittal letter shall contain names, addresses, and telephone numbers of individuals who are authorized by the Vendor to address matters related to the Proposal including, but not limited to, contractual, technical, site visit, and background investigation issues.
2. Signed Statement of Non-Collusion (See **Appendix E**).
3. Formal Agreement by the Vendor to comply with all Terms and Conditions (**Part 2**); exceptions must be noted.
4. Disclosure of Litigation and Other Information (see **Section 1.31**).
5. Acknowledgement of all RFP addenda.
6. Response to Specifications (**Part 3**) in identical order to **Part 3** subsections. **An original and one (1) copy of the required financial information (Section 3.5.7) should be filed with the original Proposal, and not with all copies.**
7. Vendor-supplied technical documentation as appendices.

1.10.2 VOLUME II – Price Proposal

The price volume must be so identified on a separate enclosure. The Price Proposal shall be signed in ink by an individual authorized to legally bind the Vendor. **The original plus six (6) copies of this part must be addressed to the Lottery's Issuing Officer.**

The contents of the Pricing Proposal must follow the following outline, employing divider pages with tabs to separate these response sections:

- 1) Transmittal Letter
- 2) Pricing for Required Instant Game Tickets and Related Services (**Section 4.6**)
- 3) Pricing for offered options

The response must be in the format designated in **Part 4**.

1.11 Proposal Receipt and Opening

Vendors choosing to hand-deliver Proposals must take into consideration that the Lottery is a secure facility and the Vendor must arrive early enough to comply with security procedures before being admitted to the Lottery's office. The date and time stamp of the Issuing Officer or of the DSL Security Officer is the official time of the Proposal receipt.

For purposes of proposal delivery, Vendors should note that the office hours of the Delaware Lottery are 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding State holidays. **The proposal due date and time is August 19, 2011 no later than 3:00 p.m. Eastern Standard Time.**

Upon request, the Issuing Officer will confirm receipt of any Proposal by telephone or electronic mail (e-mail).

Proposals will be subject to public opening on the due date by the Issuing Officer. The proposing Vendor's name will be read publicly and recorded. Price Proposals will not be opened on the due date. At the time of Notice of Award, Proposals may be viewed by written request of the Issuing Officer.

1.12 Withdrawal of Proposals

A Vendor may withdraw its Proposal at any time before the opening of Proposals if the withdrawal is received in writing before the opening at the location designated in this Request for Proposals. A Vendor or its authorized representative may withdraw its Proposal in person if, before the opening, the identity of the person requesting withdrawal is established and that person signs a receipt for the Proposal.

After the opening of Proposals, a Vendor may request in writing that its respective Proposal be withdrawn. Such a request may be allowed only upon the approval of the Lottery. The costs associated with a Vendor's Proposal withdrawal must be borne by the Vendor.

1.13 Modification of Proposals

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

1.14 Late Proposals

Proposals submitted pursuant to this RFP must be received by the Issuing Officer no later than the date and time shown in the **Section 1.6**. Failure of a Vendor to submit a Proposal by the specified time will result in rejection or disqualification of the Proposal. Proposals rejected or disqualified for lateness will be returned unopened to the Vendor.

1.15 Demonstrability of Proposed System

The DSL requires that all major elements of equipment, hardware, software, and manufacturing capabilities proposed by the Vendor, at a minimum, be capable of a demonstration that indicates the Vendor's ability to meet the requirements specified in this RFP. Failure to propose demonstrable products may result in rejection of Vendor's Proposal. Offered Options, and new models and releases of existing hardware and software may be but are not required to be demonstrable.

While functions and features demonstrated upon request for the Proposal evaluation effort need not be identical in all respects to specifications of this RFP, common transactions, functions, and operations are expected.

1.16 Readiness for Production and Delivery

The DSL requires that a version of the Lottery Instant Games System software forming the core of the Back Office System proposed must have been placed into production at the time of the Proposal, with the exception that equivalent or improved newer releases or models are acceptable. The DSL will not consider or accept major configuration items that are at the specifications or conceptual stage only, early in development, or are products only announced but not yet engineered and ready for manufacture and delivery. The DSL acknowledges that a Vendor's System would likely require adaptation to the Delaware requirements and that component parts would be ordered and assembled for delivery. A Proposal based on undeveloped products, however, will be rejected.

1.17 Proposal Clarification Process

The DSL may request clarifications from Vendors for the purpose of resolving ambiguities or questioning information presented in the Proposals. Clarifications may occur throughout the Proposal submission review and/or the Narrative/Technical Proposal evaluation process. Clarification responses shall be in writing and shall address only the information requested. Responses shall be submitted to the DSL within the time stipulated at the occasion of the request.

Clarifications are for the purpose of resolving ambiguities and improving the understanding of the DSL regarding a Proposal. In no case does the clarification or any other process permit revision or supplementation of the Proposal offerings after submission. Clarifications are an opportunity to explain, but not enhance, the Proposal.

1.18 Latitude in Proposal Contents

Each Vendor is expected to provide the DSL with information, evidence and demonstrations that will make possible a Contract award that best serves the stated interests of the DSL. Vendors are given wide latitude in the degree of detail they offer or the extent to which they reveal plans, designs, systems, processes, and procedures.

There is no limit on the number of pages; however, Vendors should prepare their Proposals simply and economically, providing a straightforward and concise description of their ability to satisfy the requirements of this RFP. Proposals that are of excessive length, or contain a preponderance of boilerplate text, are discouraged. Emphasis in each Proposal should be on completeness and clarity of content.

Failure of a Vendor to provide the appropriate information or materials in response to each stated requirement or request for information may result in lower scores during the evaluation. Responses to complex RFP requirements that are stated in a form semantically equivalent to “Vendor agrees to comply” may be rejected for non-responsiveness at the discretion of the DSL.

1.19 Proposal Disclosure by Vendor

Disclosure by a Vendor or agent of the Vendor, of Proposal contents prior to the Notice of Award may result in rejection of the Proposal.

1.20 Disclosure and Ownership of Proposal Contents by the Lottery

All matters set forth in a Vendor's Proposal, including technical and price information, may be subject to disclosure after Notice of Award. All information in a Vendor's Proposal and any Contract resulting from this RFP are subject to the provisions of Delaware's Freedom of Information Act regardless of copyright status or Vendor designations on pages of the Proposal.

Any and all materials submitted become the property of the DSL. The Lottery reserves the right to use any and all information contained in a Proposal unless prohibited by law.

1.21 Confidential Proposal Materials

All documents submitted, as part of the Vendor's proposal will be deemed confidential during the evaluation process. Vendor's proposals will not be available for review by anyone other than the Lottery Proposal Evaluation Team or its designated agents. There shall be no disclosure of any Vendor's information to a competing Vendor prior to award of the contract.

The State of Delaware is a public agency as defined by State law, and as such, it is subject to the Delaware Freedom of Information Act, 29 Del. C. Ch. 100. Under the law, all the State of Delaware's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by the State of Delaware and a decision on contract award is made, its contents will become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

If the Vendor wishes, it may specifically label each page of the proposal deemed to contain trade secrets, commercial or financial information, or proprietary data of a privileged or confidential nature under 29 Del. C. Ch. 100. Such requests will not be legally binding on the Lottery to prevent disclosure under the Freedom of Information Act, but may be evaluated under the provisions of the Act, 29 Del. C. Ch. 100. Ant final decisions will be made at the sole discretion of the Lottery.

Pricing information may not be designated as proprietary or confidential.

1.22 Joint Proposals

Multi-vendor solutions (joint ventures) will be allowed only if one of the venture partners is designated as the "prime contractor." The "prime contractor" must be the joint venture's contact point for the DSL and be responsible for the joint venture's performance under the contract, including all project management, legal and financial responsibility for the implementation of all vendors' systems and products. If a joint venture is proposed, a copy of the joint venture agreement clearly describing the responsibilities of the partners must be submitted with the proposal. Services specified in the proposal shall not be subcontracted without prior written approval by the DSL, and approval of a request to subcontract shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. Further, vendor shall be and remain liable for all damages to the DSL caused by negligent performance or non-performance of work by its subcontractor or its sub-subcontractor.

Primary Vendor

The DSL expects to negotiate and contract with only one "prime vendor." The DSL will not accept any proposals that reflect an equal teaming arrangement or from vendors who are co-bidding on this RFP. The prime vendor will be responsible for the management of all subcontractors.

Any contract that may result from this RFP shall specify that the prime vendor is solely responsible for fulfillment of any contract with the DSL as a result of this procurement. The DSL will make contract payments only to the awarded vendor. Payments to any-subcontractors are the sole responsibility of the prime vendor (awarded vendor).

1.23 Multiple Proposals from One Vendor Prohibited

A Vendor shall submit a single Proposal only. Within the single Proposal, the Vendor may identify options, including solicited and unsolicited products, services, and features that the Vendor believes may be appealing and useful to the DSL. The inclusion of options accommodates the purpose of defining alternatives through multiple Proposals.

1.24 Costs Associated with Proposal

Neither the DSL nor the State of Delaware shall be liable for any of the costs incurred by a Vendor in preparing or submitting a Proposal, including, but not limited to preparation, copying, postage, delivery fees and expenses associated with any demonstrations or presentations that may be required by the RFP.

1.25 Mandatory and Desirable

Specifications in the RFP shall be regarded by the Vendor as mandatory, as denoted by terms such as "required," "must," "shall," "should" and "will," and their semantic equivalents, except where a function, feature, or capability is specifically noted as being "desirable" or an "option." In the case of a "desirable," the Vendor is not required to offer such as expressly described in the RFP; however, the evaluation of the Vendor's offering may be more favorable if desirable functions, features, and capabilities are offered.

1.26 Material Requirements Deviations

Material requirements of the RFP are those set forth as mandatory, without which an adequate analysis and comparison of Proposals is impossible, or those that affect the competitiveness of Proposals, or the cost to the DSL.

Proposals that do not meet all material requirements of this RFP or that fail to provide all required and mandatory information, documents, or supporting materials, or include language that is conditional or contrary to terms, conditions, and requirements, may be rejected as non-responsive.

The DSL, in its sole discretion, reserves the right to determine whether a Proposal meets the material requirements of the RFP.

1.27 Non-Exclusive Rights

Nothing in this RFP or the Contract resulting from this RFP shall preclude the DSL from purchasing other instant game tickets, gaming services, equipment, etc., from Vendors other than the successful Vendor.

1.28 Rejection or Selection of Proposals

The DSL reserves the right to reject any or all Proposals, to advertise for new Proposals, to arrange to receive or itself perform and obtain the services and goods to be obtained hereunder, to abandon the need for such goods and services, or to award in whole or in part a Contract deemed to be in the best interests of the Lottery and the State of Delaware.

1.29 Proposal Tenure and Proposal Bond

Proposals must remain valid for a period of four (4) months. Proposals remaining valid less than this timeframe may be rejected. Vendors shall be strictly held to the terms contained in their Proposals. The contents of this RFP and the Proposal will become contractual obligations, if a Contract ensues. Failure of the Successful Vendor to accept these obligations will result in cancellation of the Contract award.

1.30 Disclosure and Investigations during Proposal Evaluation

Subsequent to Proposal submission, the DSL may initiate investigations into the backgrounds of the Vendor and individuals or entities related to any officers, directors, members, principals, investors, owners, subcontractors, employees, or any other individuals or entities related to the Vendor, as deemed appropriate. Such background investigations may include fingerprint identification by the Delaware State Police and the Federal Bureau of Investigation, and shall require the provision of information by the Vendor and related persons and companies as noted above.

The DSL may reject a Proposal based upon the results of these background checks. The Vendor is advised that any person who knowingly provides false or intentionally misleading information in connection with any investigation by DSL may cause the Proposal to be rejected, or a subsequent Contract to be canceled.

If the Vendor or a substantial subcontractor is a subsidiary of a parent entity, the DSL may request the above disclosures from the parent entity as necessary.

1.31 Disclosure of Litigation and Other Information

Since the DSL has a strong interest in the Successful Vendor's continuing ability to produce secure, high quality products and services, the DSL requires that Vendors list and summarize pending or threatened litigation, administrative or regulatory proceedings or similar matters that could materially affect the Vendor. As part of this disclosure requirement, Vendors must state

whether they or any owners, officers, directors, or partners have ever been convicted of a felony. Failure to disclose such matters may result in rejection of the Proposal or in termination of a Contract. Such disclosures should be submitted with the Proposal.

This is a continuing disclosure requirement; any such matter commencing after submission of a Proposal and, with respect to the Successful Vendor after the execution of a Contract, must be disclosed in a timely manner in a written statement to the DSL.

1.32 Change of Financial Condition

If a Vendor, who has submitted a Proposal in response to this RFP, experiences a material change in financial condition prior to Contract award or during the term of a Contract with the DSL, the DSL must be notified in writing at the time the change occurs or is identified. A "material change" in financial condition is defined as any event which, following Generally Accepted Accounting Principles (GAAP), would require a disclosure in the annual report of a publicly traded United States corporation. Failure to notify the DSL of such a change may result in the rejection of a Vendor's Proposal or termination of the Contract. The DSL reserves the right, based on its assessment of a material change in financial condition, to reject the Vendor's Proposal or terminate the Contract unilaterally without penalty.

1.33 Change of Ownership

If a Vendor, who has submitted a Proposal in response to this RFP, experiences a material change of ownership prior to Contract award or during the term of a Contract with the DSL, the DSL must be notified in writing at the time the change occurs or is identified. A "material change in ownership" is defined as any merger, acquisition, assignment or change in parties who comprise ownership greater than five (5) percent of the Vendor or the parent company of the Vendor. Failure to notify the DSL of such a change may result in the rejection of a Vendor's Proposal or termination of the Contract. The DSL reserves the right, based on its assessment of a material change in ownership, to reject the Vendor's Proposal or terminate the Contract unilaterally without penalty.

1.34 Offered Options

An **Offered Option** is not identified in this RFP but may be identified by the Vendor and included in the Proposal. The DSL makes no commitment to quantity or timing for acquisition of Offered Options. The DSL is not obligated to consider an Offered Option a benefit.

1.35 Independent Price Determination

By submission of a Proposal, the Vendor certifies that in connection with the Proposal:

- A. The prices in the Proposal have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition with any other Vendor or with any competitor.
- B. Unless otherwise required by law, the prices quoted have not been knowingly disclosed by the Vendor and will not knowingly be disclosed by the Vendor prior to Contract award directly or indirectly to any other Vendor or to any person not representing the Vendor.
- C. No attempt has been made or will be made by the Vendor to induce any other person or entity to submit or not submit a Proposal for the purpose of restricting competition.

1.36 Hiring and Other Business Relationships with the Lottery

During the period from the RFP release until the signing of the Contract, Vendors are prohibited from officially or unofficially making any employment offer or proposing any business arrangement whatsoever to any DSL employee. A Vendor making such an offer or proposition may be disqualified from further consideration, or a Contract signed pursuant to this RFP may be terminated unilaterally without penalty.

Furthermore, for the duration of this RFP process, Vendors, their employees and any representative, designee or agent of the Vendor shall refrain from:

- 1. Providing meals, entertainment or other expenses for the DSL's Director, officers, or employees; and
- 2. Providing gifts of any value to the DSL's Director, officers, or employees.

1.37 Applicable Laws and Procedures

The RFP, the Vendor Proposals, the resulting Contract and the processes associated with the procurement shall be governed by the laws of the State of Delaware. With respect to any and all legal action or proceedings arising under this RFP or any Contract resulting hereunder, a Vendor, by submission of a Proposal, consents to the venue and jurisdiction of all courts of the State of Delaware which is the place of the issuance of this RFP, the place where a Contract will be executed, and the principal place where the obligations of the Successful Vendor to the DSL are to be performed.

1.38 Headings

The headings used in this RFP are for convenience only and shall not affect the interpretation of any of the terms and conditions hereof.

PART 2 – TERMS AND CONDITIONS

2.0 Introduction

This section describes the terms and conditions that apply to the procurement and which will become part of the Contract executed pursuant to this RFP. By submission of a Proposal, the Vendor agrees to the Terms and Conditions contained herein.

2.1 Contract Elements

The Contract between the Lottery and the Successful Vendor shall include as integral parts thereof:

- The executed contract
- This RFP
- Clarifications and Addenda to this RFP
- The Vendor's Proposal
- Any modifications to the Vendor's Proposal, if properly submitted and any Proposal Clarifications
- Purchase Order

In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: the executed contract, Lottery's RFP, Vendor's Proposal, Modifications and Clarifications and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between the Lottery and the Vendor.

The failure of a party to insist upon strict adherence to any term of a Contract resulting from this RFP shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.

2.2 Contract Obligation

In no event shall the contract resulting from this RFP constitute or create an obligation, either general or special, debt, liability, or moral obligation of the State of Delaware, or any municipality, political subdivision, or governmental unit thereof or constitute or give rise to a pecuniary liability of the State of Delaware, or any municipality, political subdivision, or governmental unit thereof nor shall the general credit or taxing power of the State of Delaware, or any municipality, political subdivision, or governmental unit be pledged therefore.

2.3 Amendments to the Contract

Any Contract provision resulting from this RFP may not be modified, amended, altered, changed, renewed, varied, waived or augmented, except in writing executed by both parties hereto, and any breach or default by a party shall not be waived or released other than in writing and signed by the other party.

2.4 Severability

If a court of competent jurisdiction determines any portion of a Contract to be invalid, it shall be severed and the remaining portion of a Contract shall remain in effect.

2.5 Term of Contract

The Contract resulting from this RFP will be in effect from the Contract effective date, including an implementation period and three (3) years of production operations, plus such time as is necessary to finish out the Lottery business week in progress. (The Lottery's current business week runs from Monday through Sunday but is subject to change by the Lottery.) The Contract term may run a shorter period, as determined by the Lottery, due to causes such as Contract termination or loss of statutory authority by the Lottery.

The Lottery reserves the right to renew the Contract at its sole discretion up to a maximum of three (3) one (1) year renewals, provided that each single option to renew is exercised by the Lottery at least ninety (90) days prior to the end of the initial contract period, or the prior renewal period thereof, or at a time mutually agreed upon by both parties.

2.6 Emergency Extension

The Lottery reserves the right to reactivate or further extend the initial Contract, or any renewal thereof, at the rates and upon the terms and conditions then in effect on thirty (30) days' notice for one (1) or more thirty (30) day periods if a different Vendor is chosen for a subsequent Contract and the subsequent Vendor does not meet the requirements of the Lottery.

Exercising these rights shall not be construed as obligating the Lottery to repeat the procurement process for any subsequent Contract or conferring any right or expectation for the Successful Vendor to continue providing instant tickets and related services after the expiration of any such ninety (90) day period.

2.7 Covenant against Contingent Fees

The Vendor warrants that no person or selling agency has been employed or retained to solicit or secure an agreement pursuant to this RFP upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies retained by the Vendor for the purpose of securing business. For breach or violation of this warranty, the Lottery shall have the right to terminate any Contract in

accordance with the termination clause, and in its sole discretion, to deduct from any Contract any price or consideration or otherwise recover the full amount of any such commission, percentage, brokerage or contingent fee.

2.8 Audit and Accounting Requirements

Under the Contract, the Successful Vendor must meet specific auditing and accounting obligations:

- A. The Successful Vendor shall have a complete corporate financial audit conducted annually, at its own expense. The audit must follow generally accepted auditing standards (GAAS) or the appropriate non-U.S. equivalent. A copy of the Successful Vendor's certified financial statements shall be provided within one quarter after the close of the Successful Vendor's fiscal year.
- B. If applicable, The Vendor shall provide the Lottery with Securities and Exchange Commission (SEC) 10-K reports (or the appropriate non-U.S. equivalent) as they are issued, together with any other reports required pursuant to Section 13 of the Securities and Exchange Act of 1934, as amended.
- C. A third-party review of the Successful Vendor's Delaware operations must also be conducted annually. This audit will be a Service Organization Control Report (SSAE 16), Type 1, at the sole discretion and determination of the Lottery, and shall be paid for by the Successful Vendor. For this review the Successful Vendor will suggest, for the Lottery's approval, the firm(s) to perform the work. All financial aspects shall be conducted pursuant to auditing standards as issued by the American Institute of Certified Public Accountants. Annual reviews shall occur on a July through June basis and will be reported to the Lottery not later than forty-five (45) days after the close of the State's fiscal year. The first audit shall cover a partial year ending with the State's fiscal year.
- D. The Successful Vendor is required to maintain its books, records and all other evidence pertaining to the contract in accordance with generally accepted accounting principles (GAAP) (or the appropriate non-U.S. equivalent) and such other procedures specified by the Lottery. These records shall be available to the Lottery, its internal auditors or external auditors (and other designees) at all times during the Contract period and for five (5) years from the Contract expiration date or final payment on the Contract, whichever is later.

2.9 Bonds and Insurance Company Qualifications

All required bonds (if bonds) and insurance must be issued by companies which are A rated or higher by A.M. Best & Co., have a record of successful continuous operation, are licensed, admitted, and authorized to do business in the State of Delaware, and are approved by the

Lottery. Required coverage and limits must be put into effect as of the effective date of the Contract and must remain in effect throughout the term of the Contract, as determined by the Lottery. The Successful Vendor must submit copies of each required insurance contract, and any renewals thereof, to the Lottery upon the Lottery's request. The insurance policies must provide thirty (30) days' advance written notice of cancellation, termination or failure to renew any policy.

2.10 Insurance

The Successful Vendor shall purchase and maintain insurance for claims set forth below which may arise out of or result from the Successful Vendor's operations under the Contract, whether such operations are by the Successful Vendor or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- Claims under workers' disability compensation, disability benefit and other similar employee benefits acts.
- Claims for damages because of bodily injury, occupational sickness or disease, or death of the Successful Vendor's employees, or any person other than Successful Vendor employees.
- Claims for damages because of injury to or destruction of tangible property, including any resulting loss of use.
- Errors and Omissions Insurance that will indemnify the Successful Vendor, the Lottery, and the State of Delaware for any losses incurred due to System downtime, for errors or omissions caused by the Successful Vendor during the time that terminals are expected to be operational, machine error, or for any act or omission of the Successful Vendor, its officers, employees, agents, subcontractors or assigns regardless of negligence.

2.10.1 Insurance Coverage and Limits

Specific coverage requirements are listed below. The defined dollar amounts are minimum limits. The Successful Vendor must provide these or as otherwise designated by Delaware Statutes during the course of the Contract. Statement of self-insurance to cover these obligations will be considered nonresponsive.

- A. Property Insurance. Insurance on all buildings, fixtures and equipment provided or used in providing the System or service must be maintained in the amount of actual replacement cost thereof. This policy must insure real and personal property including contents, equipment, and mobile items against fire, collision, flood, etc. Lottery sports book venues are not responsible for assuming or maintaining any terminal or equipment insurance.

- B. General Liability Insurance. Commercial General Liability and Property Damages Insurance with limit not less than \$2,000,000 for any one person and \$4,000,000 for any one occurrence for personal injury, and \$1,000,000 for any one occurrence for property damages.
- C. Errors and Omissions Insurance. Amount: \$5,000,000.
- D. Automobile Bodily Injury Liability Insurance. Insurance with a combined single limit not less than \$1,000,000.
- E. Worker's Compensation Insurance. To cover all of Vendor's employees during the term of the Contract in accordance with Delaware Statutes, or other applicable worker's compensation laws.

The Errors and Omissions Insurance must indemnify the Lottery, its Commissioners, officers and employees, and the State for direct loss due to any act or omission of the Successful Vendor and coverage must continue until one (1) year past the term of the Contract or any extension thereof.

All other insurances covered by this Section must be effective when performance commences under the Contract and continue through the term of the Contract or any extension thereof. The Lottery must receive thirty (30) days' advance written notice of cancellation, termination or failure to renew any policy.

2.10.2 Certificates of Insurance

Certificates of insurance and any renewals thereof must be furnished to the Lottery Contracting Officer on the date of Contract execution, with the exception of the certificate for Errors and Omissions Insurance, which must be furnished no later than ten (10) business days prior to production start-up.

2.11 Performance Bond

Upon notification of receiving the Contract award, the Successful Vendor will be required to obtain a Performance Bond or other acceptable form of security in the amount of one million dollars (\$1,000,000) for the first year of the Contract. The Performance Bond may be paid in full or in part to the Lottery if the Successful Vendor defaults in the performance of the Contract or has occasioned uncompensated liquidated damages.

The amount of the performance bond for the second and subsequent years of the contract shall be in the sum of one hundred thousand dollars (\$100,000) and the total of all liquidated damages assessed to the Successful Vendor during the preceding twelve (12) months of operation under the contract.

The Performance Bond may be assessed liquidated damages if these damages have not been received by the Lottery within thirty (30) calendar days of written notice to the Successful Vendor that they have been incurred.

Other forms of security may be acceptable but are subject to the Lottery's discretion. Failure to post an additional bond or security within seven (7) days after notice that the proposed security is inadequate shall be grounds for immediate termination of the Contract.

2.12 Fidelity Bond

Prior to Contract execution, the Successful Vendor will be required to obtain a Fidelity Bond in the amount of five million dollars (\$5,000,000) covering any loss to the Lottery due to any fraudulent or dishonest act on the part of the Successful Vendor's officers, employees, agents or subcontractors. Such an event, in the sole discretion of the Lottery, could be grounds for termination of the Contract, whether or not the losses arising as a result thereof were paid under the crime insurance policy. If the Successful Vendor's policy does not cover agents or subcontractors, then the Successful Vendor must ensure that these entities have equivalent insurance in their own right. This bond is not in lieu of any other actions deemed appropriate by the Lottery or the State of Delaware.

2.13 Vendor Error Liability

The Successful Vendor will be liable for any specific and definite financial obligations that arise as a result of errors and faults by the Successful Vendor's staff, agents, subcontractors and products, including, but not limited to, instant game tickets and back office software.

2.14 Liquidated Damages Provisions

In the below-listed liquidated damages sections, the Lottery and the Successful Vendor agree that it can be extremely impractical and difficult to determine actual damages sustained by the Lottery. **Therefore, the parties agree that the liquidated damages specified in all the sections below are reasonable and are not to be construed as punitive. In the case that damages can be precisely determined and are less than the schedules shown below, actual damages will then apply.**

Assessment of liquidated damages shall be in addition to, and not in lieu of, such other remedies as may be available to the Lottery. Except and to the extent expressly provided herein, the Lottery shall be entitled to recover liquidated damages under each section applicable to any given incident.

2.14.1 Notification of Liquidated Damages

Upon determination that liquidated damages are to or may be assessed, the Lottery shall notify the Successful Vendor of the assessment in writing. The availability of any period of cure will depend on the situation and will be in the sole discretion of the Lottery.

2.14.2 Conditions for Termination of Liquidated Damages

As determined appropriate by the Lottery, the following are the conditions under which the Successful Vendor may obtain relief from the continued assessment of liquidated damages that have been imposed.

- A. Except as waived in writing by the Lottery, no liquidated damages imposed shall be terminated or suspended until the Successful Vendor issues a written notice verifying the correction of the condition(s) for which liquidated damages were imposed, and all corrections have been subjected to system testing or other verification at the discretion of the Lottery.
- B. As appropriate, the Successful Vendor shall conduct system testing of any correction, as the Lottery deems necessary. Such testing shall be developed jointly by the Lottery and the Successful Vendor, and must be approved by the Lottery.

2.14.3 Severability of Individual Liquidated Damages

If any portion of the liquidated damages provisions is determined to be unenforceable in one or more applications, that portion remains in effect in all applications not determined to be invalid and is severable from the invalid applications. If any portion of the liquidated damages provisions is determined to be unenforceable, the other provision or provisions shall remain in full force and effect.

2.14.4 Waivers of Liquidated Damages

The waiver of any liquidated damages due the Lottery shall constitute a waiver only as to such liquidated damages and not a waiver of any future liquidated damages. Failure to assess liquidated damages or to demand payment of liquidated damages within any period of time shall not constitute a waiver of such claim by the Lottery.

2.14.5 Payment of Liquidated Damages

All assessed liquidated damages will be deducted from any moneys owed the Successful Vendor by the Lottery and, in the event the amount due the Successful Vendor is not sufficient to satisfy the amount of the liquidated damages, the Successful Vendor shall pay the balance to the Lottery within thirty (30) calendar days of written notification. If the amount due is not paid in full, the balance will be deducted from subsequent payments to the Successful Vendor. At the Lottery's sole option, the Lottery may obtain payment of assessed liquidated damages through one (1) or more claims upon the Performance Bond.

2.14.6 Applicability of Liquidated Damages and Pro Rata Liquidated Damages

The Successful Vendor shall not be required to pay liquidated damages for delays solely due to matters as enumerated in the section entitled "Force Majeure," or for time delays specifically due

to, or approved by, the Lottery. In all the below liquidated damages sections, the damages shall be pro-rated for partial periods.

2.14.7 Instant Games System Installation

Condition

The Successful Vendor shall complete all installation preparations as required, complete testing to the Lottery's satisfaction, pass Lottery acceptance testing, comply with all other contractual requirements in effect during the implementation period, and achieve readiness for production operations.

Damages

The Lottery may impose liquidated damages for each calendar day of delay as follows:

- A. Installation. The Lottery may impose liquidated damages of two thousand five hundred dollars (\$2,500) per day for each calendar day of delay according to a schedule of installation mutually agreed upon by the DSL and the Successful Vendor in completion of system testing and acceptance testing and may assess such damages until system testing and acceptance testing are completed in accordance with definitions and requirements set forth in the Contract, and until the Instant Games System is fully operational.
- B. Missing Deliverables. The Lottery may impose liquidated damages of two hundred fifty dollars (\$250) per day for each and every failure to provide a deliverable or to resolve an acceptance test problem pursuant to the agreed upon schedule or to comply with all other contractual requirements in effect, until such requirement is provided or performed.

2.14.8 Instant Games Ticket Delivery

Condition

The Successful Vendor shall deliver instant game tickets in a timely manner as set forth in the Working Papers for such game.

Damages

If instant game tickets are not delivered in a timely manner as set forth in the Working Papers for such game, and if and to the extent that the delay does not result in the Lottery being unable to fill orders for tickets from retailers, the Lottery may impose liquidated damages of two thousand five hundred dollars (\$2,500) per day or part of a day that the shipment is delayed beyond the time specified. If to the extent that the delay does result in the Lottery being unable to fill orders for tickets from the retailers or does result in the Lottery being unable to start or continue a game in a timely fashion, the DSL may impose liquidated damages of ten thousand dollars (\$10,000) per day or part of a day that the shipment is delayed beyond the time specified.

2.14.9 Instant Games System Down***Condition***

The instant games system shall be defined as "down" if no instant tickets can be validated by the system. The total time during which the instant games system is down during the operational day shall be the sum of all time during such period when the instant games system is "down."

Damages

In the event that the instant games system has been down, the DSL may impose liquidated damages as a result of the total time during each daily operational period that the instant games system is down, except for the first hour, according to the following schedule:

- A. Liquidated damages of two hundred fifty dollars (\$250) shall be assessed for each hour, or pro-rated fraction thereof, of instant games system downtime.
- B. In the event that two (2) downtime incidents in excess of one (1) hour each have already occurred in a business week, the grace period of one (1) hour shall be rescinded, and liquidated damages shall begin immediately with any subsequent outage in that week.

2.14.10 Failure to Provide Enhancements and Modifications***Condition***

During the term of the Contract, the DSL and the Successful Vendor may agree in writing to a schedule for developing, testing, and implementing or installing modifications or enhancements of the instant games system.

The DSL and the Successful Vendor shall mutually agree to a delivery date for such modifications and enhancements.

Damages

If the Successful Vendor fails to meet any date specified for DSL acceptance testing or start-up for the instant games system, the Director may assess liquidated damages of five hundred dollars (\$500) per day for each day of delay regarding the modification, enhancement or addition of a game and two hundred fifty dollars (\$250) per day for each day of delay regarding the modification, enhancement or addition of a report, or other instant games system change.

2.14.11 Timely and Accurate Reports***Condition***

The Successful Vendor shall produce and deliver timely, sufficient and accurate management reports within the specified timeframes (e.g. daily reports, weekly report), as approved by the Lottery. Liquidated damages will apply if the report is late or deficient for more than one (1) report time period (e.g., daily report is two days late).

Damages

For each late, insufficient, or inaccurate report, the Lottery may impose liquidated damages up to one hundred dollars (\$100) per time unit, until the report is provided, made sufficient or corrected.

2.14.12 Timely and Accurate Files***Condition***

The Successful Vendor shall produce and deliver timely, sufficient and accurate files within the specified timeframes, as approved by the Lottery. Liquidated damages shall apply if the file transfer is late one time period or more.

Damages

For each late, insufficient, or inaccurate file the Lottery may impose liquidated damages up to one hundred dollars (\$100) per time period until the file is provided, made sufficient or corrected.

2.14.13 Unauthorized Software and/or Hardware Modifications***Condition***

The Successful Vendor shall not modify any software or hardware in the instant games system without the prior written approval of the Lottery, except in the event of emergency when the Successful Vendor shall be permitted to rely on the verbal consent of the Director or his designee.

Damages

If the Successful Vendor modifies any software or hardware without the prior written approval of the Lottery, the Lottery may issue a written order that the change or modification be removed and the System restored to its previous operating state at the Successful Vendor's expense.

“Modification” does not include replacement of a System component with an essentially similar working component in the event of necessary maintenance.

Further, the Lottery may impose liquidated damages up to ten thousand dollars (\$10,000) per violation in addition to any other damages that may occur as a result of such unauthorized modification.

2.14.14 Unauthorized Access***Condition***

The Successful Vendor shall preclude personnel not authorized by the Lottery from accessing the Delaware instant games system.

Damages

If the Successful Vendor fails to preclude access by unauthorized personnel, the Lottery may impose liquidated damages in the amount of five thousand dollars (\$5,000) for each person and

for each incident in violation. Each and every act that permits access by an unauthorized person is an incident.

2.14.15 Failure to Report Incidents

Condition

It will be the responsibility of the Successful Vendor to immediately report all significant incidents related to the operation of the instant games system. The immediate reporting shall be delivered personally or by telephone within one (1) hour of the discovery of the incident, followed by a letter addressed to the Lottery Director within twenty-four (24) hours of the incident. All written reports and notifications may be sent by courier or facsimile copy directly to the Lottery Director.

Damages

In the event that the Successful Vendor fails to report incidents as defined in this Section and required by this RFP, the Lottery may impose liquidated damages of five hundred dollars (\$500) per day until an incident is correctly reported.

2.14.16 Failure to Remedy Audit Recommendations

Condition

If the Successful Vendor fails to address recommendations made as a result of a System or operational audit by a recognized authority such as the State of Delaware, or Lottery-approved auditors, there will be liquidated damages assessed.

Damages

In the event that audit recommendations addressing any of the Successful Vendor's operational or system activities are not corrected within ninety (90) days of notification, unless specifically exempted by the Lottery, the Vendor may be charged liquidated damages of five thousand dollars (\$5,000) at the end of the initial 90-day period and an additional two thousand five dollars (\$2,500) for each subsequent 30-day period or any portion thereof, for which the audit recommendation corrections have not been completed.

2.15 Ownership of Materials

Ownership of all data, documentary material and operating reports originated and prepared exclusively for the Lottery pursuant to any Contract resulting from this RFP shall belong to the Lottery.

The Successful Vendor shall grant to the DSL a non-exclusive, non-transferable, non-assignable license to use the Intellectual Property Rights embodied in the instant game system in the State of Delaware in connection with the sale of instant game tickets by the DSL, with no right to sublicense, for the term of the Contract and any amendments thereto or extensions thereof. The Successful Vendor shall retain ownership to all Intellectual Property Rights in and to the instant

games system and all enhancements, modifications, changes, upgrades and derivative works related thereto. Upon termination of the Contract for any reason, the DSL shall return to the Successful Vendor the instant games system and any other materials containing any Intellectual Property Rights related thereto.

2.16 Right of Use

If, for any reason other than a breach of the Contract by the Lottery, the Successful Vendor loses the ability or refuses to comply with the Contract, the DSL shall retain the right to use the equipment, source program instructions and documentation for those items owned by the Successful Vendor and which are necessary to provide contractual services.

Said right shall be limited to the right of the Lottery to possess and make use of such items solely for the use and benefit of the Lottery in maintaining, altering and improving the operational characteristics of the programs and systems being used under the Contract. In such an event, all software programs, documentation, operating instructions, hardware, and the like, including modifications or alterations thereof, shall be kept in confidence, except to the extent that they are public records under Delaware law, and shall be returned to the Successful Vendor when their use according to this paragraph has been fulfilled.

If there has been a determination, in the sole discretion of the Lottery, that a discontinuity of the Successful Vendor's operations may be anticipated and this provision may be exercised, the Successful Vendor shall provide training to the Lottery in the operation of the System, at the Lottery's request.

2.17 Force Majeure

A Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled and is without the fault or negligence of the non-performing party. As herein used, Force Majeure includes, but is not limited to, fire, explosion, action of the elements, strike or labor disturbance, rationing, war, terrorism, act of any governmental authority or agency, civil disturbance, governmental interference, or any other cause which is beyond the control of the party affected, and which, by the exercise of reasonable diligence, said party is unable to prevent delays arising as a result thereof or to predict and through advance planning avoid such delays.

Except as otherwise provided herein, neither the Successful Vendor nor the Lottery shall be liable to the other for any delay in, or failure of performance of, any covenant contained herein nor shall any such delay or failure of performance constitute default hereunder, to the extent that such delay or failure is caused by Force Majeure. The existence of such causes of delay or failure shall extend the schedule for performance to such extent as may be necessary to complete performance in the exercise of reasonable diligence after the causes of delay or failure have been removed.

Any such delay in or failure of performance shall not in and of itself give rise to any liability for damages; however, the Lottery may elect to terminate the Contract for cause should its continuing operations, in its sole judgment, be materially threatened or harmed by reason of extended delay or failure of performance.

During a period of non-performance due to Force Majeure, payments from the Lottery to the Successful Vendor will be suspended.

2.18 Security Program under the Contract

Prior to operations under the Contract, the Successful Vendor shall establish a physical and software security program for the entire Instant Games System and instant game tickets, subject to the prior written approval of the Lottery. This program must be updated, reviewed, and approved annually by the Lottery. As part of this the Successful Vendor must maintain an approved Operations Security Plan.

2.18.1 Vendor Personal Background

The Lottery may initiate investigations into the backgrounds of any officers, principals, investors, owners, subcontractors, employees, or any other associates of such Vendor it deems appropriate. Background investigations may include fingerprint identification by the Delaware State Police and the Federal Bureau of Investigation. The Lottery reserves the right to remove any and all employees of such Vendor from any responsibility in the performance of services as provided for under this RFP, based upon the results of background checks, or if the Lottery finds that any such employee is not performing in the best interest of the Lottery.

The Lottery may extend this requirement to include any officers and employees of the Successful Vendor and any subcontractors involved in any way in the implementation, installation and operation of the System. The Lottery may also extend this requirement to include investors and owners (with a five percent or greater interest).

Upon award of the Contract, the Successful Vendor shall submit and allow, at a minimum, the following security elements:

- A. A list of the names, addresses, dates of birth and Social Security numbers of all employees and subcontractors assigned to and associated with this Contract.
- B. Authorizations signed by the employees and subcontractors to allow law enforcement agencies to release relevant background information. This may be extended to include officers, investors, owners, and associates.
- C. Assurance to the Lottery that, as changes are processed throughout the Contract and any extension thereof for the aforementioned types of personnel, any changes in this

requested data and authorization shall be reported to the Lottery within one (1) calendar month.

- D. Notification in writing to the Lottery within ten (10) business days if an person, group of persons, partnership, corporation, associate group of investors, limited liability company or other legal entity acquires directly or indirectly the beneficial ownership (as defined by Securities and Exchange Commission Regulation §240.13d-3) in the amount of five percent (5%) or more of the ownership interest in, or any class of equity securities of, the Successful Vendor or the parent company of the Successful Vendor. Background investigation and licensing may be required for these new owners and if the investigations are unsatisfactory, the Lottery may, at its option, terminate the Contract, after providing thirty (30) days written notice to the Successful Vendor.
- E. Unfettered and unannounced access, inspection and evaluation privileges for all phases of performance and for all facilities and premises used by the Vendor in fulfillment of this Contract and any extension thereof.
- F. Immediate notification in writing to the Lottery of all terminations and resignations of employees and staff assigned to and associated with this Contract.

2.18.2 Security Violation Reporting

The Successful Vendor shall immediately report any security procedural violation, violation of law (e.g., theft), or disappearance of any instant game tickets, log or validation files, or other equipment, software or material used or to be used in the performance of this Contract. Failure to report may lead to liquidated damages as defined in this RFP **Section 2.14**.

2.18.3 Security Information Updates

The Successful Vendor shall report any change in, addition to, or deletion from, the information disclosed to the Lottery. The report shall be in the form of a letter addressed to the Lottery and shall be delivered to the Lottery within thirty (30) days of the effective date of the change, addition, or deletion. In particular, the Successful Vendor must report the involvement of any of the Successful Vendor's employees, owners, or agents in any known criminal arrest (exclusive of minor traffic violations), indictment or investigation, or any such action or event reasonably related to the security, integrity, or image of the DSL. Failure to report may lead to liquidated damages as defined in this RFP **Section 2.14**.

2.19 Production-Ready Acceptance Test Following Contract Award

The Lottery will conduct a series of acceptance tests of the Successful Vendor's installation, in accordance with the specifications of this RFP, the Proposal, the Contract, and working papers

developed jointly by the Successful Vendor and the Lottery during the implementation project. The Successful Vendor's assistance in arranging these tests is obligatory.

The Lottery will not consider the Instant Games System components ready for Lottery acceptance testing while still under development by the Successful Vendor, or still subject to Quality Assurance verification by the Successful Vendor. The Lottery may establish reasonable standards for readiness of the Instant Games System for acceptance testing, known as "entry criteria."

All defects discovered during acceptance testing must be corrected and re-tested by the Successful Vendor in a timely manner. If the software is shown to contain such number of defects as to render the Instant Games System un-testable in a practical sense and their remedy is untimely, the Lottery reserves the right to halt acceptance testing until the Instant Games System is corrected and testable in a practical sense once again. Acceptance testing halts may lead to delays in System delivery and liquidated damage assessments for the Successful Vendor.

The Lottery, at its sole discretion, will determine whether performance against the acceptance tests is adequate, and whether conversion can proceed to production as scheduled.

Passing an acceptance test in no way removes the obligation of the Successful Vendor to meet and to continue to meet, all requirements of the RFP and Contract throughout the Contract term and all its extensions.

2.20 End of Contract Conversion

It is contemplated that, prior to the expiration of the Contract resulting from this RFP, the Lottery will award a new Contract for Instant Game Tickets and Related Services. The parties understand and agree that the Lottery may utilize part of the last year of the Contract resulting from this RFP or any renewal or extension thereof for conversion to the replacement instant games system. The Successful Vendor shall cooperate fully and in good faith in the conversion.

2.21 Equipment and Software Corrections and Upgrades

2.21.1 Corrections

The Successful Vendor is responsible for corrections to all Instant Games System software and hardware errors and design defects; and improved versions of the hardware and software to sustain performance or correct performance problems, to otherwise meet or continue to meet Contract defined requirements for the entire term of the Contract including any options.

2.21.2 Maintenance

The Successful Vendor is responsible for maintaining the Instant Games System hardware and software elements with "supported releases" from the Successful Vendor and suppliers. This includes, but is not limited to, all equipment, the Instant Games System itself, reporting software,

project management system, accounting system, and hardware diagnostics. At the time the Successful Vendor is notified by a supplier that a release is scheduled to have support dropped, it is the Successful Vendor's obligation to acquire and install an appropriate upgrade or replacement (with the DSL's approval). Equipment and software changes necessary to support increased volumes of transactions are to be included in the base pricing.

2.21.3 Management Information and Reporting Changes

The Successful Vendor is responsible for software changes for instant validation processing, instant games management, tel-sell, instant ticket distribution, retailer licensing, instant games management reporting, financial/accounting reports, security, instant ticket inventory controls and instant games tax reporting required for the DSL to manage the Instant Games System. Any software and games made available to any of the Successful Vendor's clients shall also be made available to the DSL.

2.21.4 Other Changes

Changes and enhancements to the equipment and software which exceed RFP-specifications and which are not otherwise accommodated by the Pricing Method and Options detailed in **Part 4**, will have their pricing negotiated with the Lottery.

2.22 Approval of Hardware and Software Changes and Upgrades

The Successful Vendor's configuration management system and practices shall preclude unauthorized changes to the Instant Games System. Any engineering changes or variations from the designs and specifications of the RFP, the Proposal, the Contract, or signed-off working papers must be **approved in writing** by the Lottery prior to installation or implementation.

2.23 Compensation during Contract

The Lottery is obligated to compensate the Successful Vendor only as a result of sales conducted through a weekly retailer settlement process. The submitted invoices will be confirmed by the DSL based on management and accounting reports. Confirmed invoices will be paid within thirty (30) days of receipt.

The State fiscal year is July first (1st) through June thirtieth (30th). Payments to the successful vendor from the DSL in any given fiscal year are contingent upon enactment of appropriation legislation.

2.24 Title to Use and Compensation for Intellectual Property

To the extent that the Successful Vendor utilizes or relies upon the Intellectual Property Rights of a third party in fulfilling its obligations under the Contract, the Successful Vendor will provide the Lottery with all copies of licenses and other agreements. In addition, in the event of failure to

perform or breach of Contract the Successful Vendor must ensure continued right of use of licensed intellectual property by the Lottery.

While the Lottery and the Successful Vendor agree that Intellectual Property associated with any product or service provided by (or developed solely by) the Successful Vendor during the term of this Contract and used by the Lottery will remain the property of the Successful Vendor, the Successful Vendor will grant a license to the Lottery to make use of any such Intellectual Property on an indefinite basis with respect to Lottery conduct of games. There shall be no additional charge for this right of the Lottery.

Intellectual Property fees for third-party products, logos, trademarks, brands or labels that the Successful Vendor deploys in the System under the Contract shall be negotiable. The Successful Vendor may not separately charge the Lottery an Intellectual Property fee for any items owned by the Successful Vendor.

2.25 Exclusive Use of the Transaction Processing Systems

Use of the Successful Vendor's hardware and software configuration that processes transactions for the Lottery must be exclusive to the Lottery. Transactions from other sources shall not be commingled with the wager transactions of the Lottery.

2.26 Attachment of Third-Party Systems, Terminals or Products

The Lottery reserves the right to attach to the Instant Games System or otherwise install: products or systems other than those required by this RFP.

The Successful Vendor shall be required to supply to the Lottery, interface specifications to permit other products to carry out all functions and capabilities desired by the Lottery. The Successful Vendor shall provide support to the Lottery in conducting future procurements for such additional products including providing facilities and support to allow other Vendors to attach or install and test products during the evaluation process. The Lottery will monitor progress to ensure full cooperation.

Should the Lottery propose to add terminals, products, systems, or services not supplied by the Successful Vendor for this RFP, but for which the Successful Vendor would gain responsibility, appropriate remuneration of the Successful Vendor shall be negotiated.

2.27 Ticket Purchase and Payment Restrictions

Restrictions apply to the purchase of tickets and payment of prizes regarding individuals related to the Successful Vendor or the Successful Vendor's significant subcontractors. No officer, employee, or immediate supervisor of such employee, or relative living in the same household as these individuals shall purchase a DSL instant ticket, or be paid winnings from any DSL instant ticket, if (i) they conduct duties directly pursuant to the Contract; or (ii) they have access to

information made Confidential by the Lottery. The Successful Vendor shall ensure that this requirement is made known to each affected individual.

2.28 Vendor Ethics and Integrity

The Successful Vendor is obligated to meet high standards for ethics and integrity under this Contract. The Successful Vendor and its employees:

- A. Shall accept no pay, remuneration, or gratuity of any value for performance on or information derived from this project from any party other than the Lottery as described in this Contract, or from any party under contract to the Lottery or seeking to contract with the Lottery with respect to this project.
- B. Shall not offer or give any gift, gratuity, favor, entertainment, loan or any other thing of material monetary value to any Lottery employee, or to any individual with the intent of unduly influencing the outcome of this project.
- C. Shall not disclose any business sensitive or confidential information gained by virtue of this Contract to any party without the consent of the Lottery.
- D. Shall take no action in the performance of this Contract to create an unfair, unethical or illegal competitive advantage for itself or others.
- E. Shall not have any financial or personal interests relating to this project (other than the Contract itself) without the explicit written consent of the Lottery.

For violation of the above provisions, the Lottery may terminate the Contract, receive restitution from, receive liquidated damages, or take any other appropriate actions against the Successful Vendor.

2.29 Termination for Cause

The Lottery may immediately terminate any contract issued as a result of this RFP for any of the following reasons by providing written notice to the Successful Vendor:

- 1. If the Successful Vendor furnished any statement, representation, warranty, or certification in connection with this RFP or the resultant Contract which is materially false, incorrect, or incomplete.
- 2. If the Successful Vendor fails to perform any material requirement of the Contract or is in violation of a specific provision.
- 3. If the Successful Vendor or a subcontractor commits a fraudulent act or other criminal act in its contractual performance of this Contract or any other contract with the Lottery or another State agency during the terms of this Contract.

4. If any officer or employee of the Successful Vendor or of any subcontractor purchases a Delaware instant game ticket and/or attempts to collect winnings from a Delaware instant game ticket.
5. If the Successful Vendor suffers a material change of financial condition as outlined in **Section 1.32** of this RFP.

The State and the Lottery will not be liable for any costs incurred if termination is for any of the causes stated above. In the cases above the Lottery may cancel the Contract immediately and procure the articles and/or services from other sources and hold the Successful Vendor responsible for any excess costs or lost revenue occasioned thereby.

If after termination for cause of the Vendor to fulfill contractual obligations, it is determined that the Vendor has not so failed, the termination shall be deemed to have been effected for the convenience of the Lottery.

2.30 Termination without Cause or For Convenience

The Contract shall be terminable by the Lottery without cause, at the sole discretion of the Lottery, upon thirty (30) days written notice.

When it has been determined that a Contract shall be terminated without cause or for the convenience of the Lottery, the Lottery Director or his designee shall be authorized to negotiate a settlement with the Successful Vendor.

Compensation to a Successful Vendor for a Contract terminated without cause for the convenience of the Lottery shall be limited to reasonable expenses for products, materials, and supplies, and for services rendered, and not yet, or not fully compensated. The Lottery will make no payments for furnished work, work in progress, or raw materials acquired unnecessarily in advance or in excess of Lottery's delivery requirements.

Upon written notification, the Contract shall be null and void as of that date, and each party shall be relieved of any obligation or liability to the other, except with respect to any clauses specifically stated in the contract to survive termination.

2.31 Default

The Lottery reserves the right to cancel the Contract and to pursue any and all legal remedies provided at law, in equity, in this RFP or in the Contract for breach or nonperformance of a Contract or other infractions, whether or not such default results in the cancellation of a Contract executed pursuant to this RFP.

In addition to the remedy of Contract cancellation and all other remedies available to the Lottery hereunder, in the Contract, at law or in equity, the Lottery may in its sole discretion accept partial,

incomplete or otherwise non-complying performance, and may deduct from the price to be paid under the Contract a sum which in the Lottery's determination reasonably reflects the difference in value between the contract as it was to have been performed and as it was actually performed.

The Lottery shall be entitled to collect costs incurred as the result of any breach, including court costs and reasonable attorneys' fees.

2.32 Disputes under the Contract

In the event that any dispute arises between the parties with respect to the performance required of the Successful Vendor under the Contract, the Lottery Director shall make a determination in writing and send it to the Successful Vendor. That interpretation shall be final, conclusive and not subject to review in all respects unless the Successful Vendor, within thirty (30) days of receipt of said writings, delivers a written appeal to the Lottery Director or his duly authorized designee. The decision of the Lottery Director on any such appeal shall be made within thirty (30) days and shall be final and conclusive and the Successful Vendor shall thereafter in good faith and due diligence render such performance as the Lottery Director has determined is required of it. The Successful Vendor's options with respect to any such decision on appeal shall be either 1) to accept the determination of the Lottery Director as a correct and binding interpretation of the Contract, or 2) to make such claims as it may desire before a court of competent jurisdiction.

Pending a final judicial resolution of any such claim, the Successful Vendor shall proceed diligently and in good faith with the performance of the Contract as interpreted by the Lottery Director and, if the contract requires, the Lottery shall compensate the Successful Vendor pursuant to the terms of the Contract.

2.33 Accounting Records

The Successful Vendor is required to maintain its books, records and all other evidence pertaining to the Contract in accordance with generally accepted accounting principles and such other procedures specified by the Lottery. These records shall be available to the Lottery, its internal auditors or external auditors (and other designees) at all times during the contract period and for five (5) full years from the expiration date or final payment on the contract, whichever is later.

Successful Vendor shall maintain all public records, as defined by 29 Del. C. § 502(7), relating to the contract and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 Del. C. Ch. 5. During the term of the contract, authorized representatives of Delaware may inspect or audit Successful Vendor's performance and records pertaining to the contract at the Successful Vendor's business office during normal business hours.

2.34 Equal Employment Opportunity

During the performance of the awarded contract, the Vendor agrees as follows:

- A. The Vendor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, or national origin. The Vendor will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment without regard to their race, creed, color, sex, age, or national origin. Such action shall include, but not be limited to the following: advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeships. The Vendor agrees to post in conspicuous places, notices to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.
- B. The Vendor will, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, age, or national origin.

2.35 Assignment; Subcontracts

1. Any attempt by Successful Vendor to assign or otherwise transfer any interest in the contract without the prior written consent of the Lottery shall be void. Such consent shall not be unreasonably withheld.
2. Services specified by the contract shall not be subcontracted by Vendor, without prior written approval of Lottery.
3. Approval by the Lottery of Vendor's request to subcontract or acceptance of or payment for subcontracted work by the Lottery shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of the contract.
4. Vendor shall be and remain liable for all damages to the Lottery caused by negligent performance or non-performance of work under the contract by Vendor, its subcontractor or its sub-subcontractor.
5. The compensation due shall not be affected by Lottery's approval of the Vendor's request to subcontract.

2.36 Right to Audit Successful Vendor's Operations

The Lottery reserves the right to audit the Successful Vendor's records and operations as they relate to Delaware Lottery operation. Said audits may be conducted by the Lottery's own auditors, or by an independent firm specified by the Lottery. The Successful Vendor shall agree to cooperate fully with any and all audits.

2.37 Indemnification

The Successful Vendor shall indemnify, save harmless and forever defend the Lottery, the State of Delaware, and their respective officers, agents, directors, employees, and other contractors from and against any and all claims, liabilities, losses, damages, costs, injuries or expenses (including reasonable fees and expenses of attorneys of the Lottery's choice and court costs), which may be incurred, suffered, or required in whole or in part by an actual or alleged act or omission of:

1. The Successful Vendor; or,
2. A subcontractor of Successful Vendor; or,
3. Any person directly or indirectly employed by or in an agency relationship with the Successful Vendor or a subcontractor, or which may arise out of or be related to the Successful Vendor's response to this RFP or its or any of its subcontractor's performance or failure to perform under any Contract.
4. Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware or the Lottery, the Lottery shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the Lottery against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.
5. If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively "Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:
 - (a) Procure the right for the Lottery to continue using the Product(s);
 - (b) Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
 - (c) Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the contract, or only alters the Product(s) to a degree that the Lottery agrees to and accepts in writing.

6. All obligations of indemnification shall survive the termination of the Contract.

2.38 Taxes, Fees and Assessments

The Successful Vendor shall pay all taxes, fees and assessments upon the instant games system and/or services, however designated, levied or based. The Lottery is exempt from Federal, State and Local sales and use taxes on the services provided pursuant to this Contract. Such taxes must not be included in the Proposal prices.

2.39 News Releases

The Successful Vendor shall not issue any news releases pertaining to the award or the performance of the Contract without prior approval by the Lottery, and then only in cooperation with the Lottery.

2.40 Advertising

The successful Vendor agrees not to use the Lottery name, logos, images, nor any data or results arising from this procurement process or Contract as a part of any commercial advertising without prior written approval by the Lottery.

2.41 Loss of Statutory Authority

If statutory authority to operate is lost for the Delaware Lottery, then the Contract shall be null and void. In the event of such an occurrence, neither party shall have any remaining obligation or liability thereafter.

2.42 Approval of Staffing

The Lottery reserves the right to review and if perceived necessary, reject any employee of the Successful Vendor or any employee of any subcontractor who is assigned to the Lottery Contract, either at Contract inception or during the term or any extension thereof.

In addition, the Lottery will require the Successful Vendor to provide minimum levels of staffing or service to meet the performance requirements as set out in the Contract. Within ninety (90) days after notification from the Lottery that the Successful Vendor has failed to provide minimum levels of staffing or service to meet the performance requirements as set out in the Contract, the Successful Vendor shall employ such additional resources as are necessary to meet the performance standards. If the Successful Vendor does not provide minimum levels of staffing or service to meet the performance standards as set out in the Contract, the Lottery, at the end of such ninety (90) day period, may terminate the Contract.

2.43 Successful Vendor Responsibilities as Primary Contractor

The Successful Vendor will assume sole responsibility and liability for delivery, installation and maintenance of all equipment, software and support services offered in its Proposal and for the provision of all other goods and services offered in or acquired by its Proposal, and will directly make such representations and warranties to the Lottery to which the Lottery and the Successful Vendor may agree, whether or not is the Successful Vendor is the manufacturer, producer or direct provider of the equipment, software or services.

The Successful Vendor may have subcontractors; however, the Successful Vendor must accept full responsibility for and will be strictly liable to the Lottery for any such subcontractor's performance. The Lottery will consider the Successful Vendor to be the sole point of contact with regard to all contractual matters.

2.44 Subcontract Approval

Any proposed subcontracts shall be subject to the prior written approval of the Lottery. Subcontractors are subject to background checks of personnel and principals as described in previous paragraphs of this RFP section.

2.45 Compensation during Implementation

The Successful Vendor for this RFP will receive no compensation from the Lottery until a complete implementation has been effected, production operations are fully supported by the Successful Vendor's systems, the Lottery has formally accepted the System, and sales begin.

2.46 Authority of the Lottery

On all questions concerning the interpretation of specifications, the acceptability and quality of material furnished and/or work performed, the classification of material, the execution of the work, the assessment of liquidated damages, and the determination of payment due or to become due, the decision of the Lottery shall be final and binding.

2.47 Set-Aside and Supplier Diversity Program

It is the policy of the Lottery to contribute to the establishment, preservation and strengthening of small businesses and businesses owned by women and minorities in our procurement activities. Toward that end, the Lottery encourages Vendors to provide for the participation of Delaware small businesses and Delaware businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities.

2.48 Non-Discrimination and Affirmative Action Provisions

Every Contract executed by the Lottery shall contain the following provisions. The Successful Vendor agrees and warrants:

That, in the performance of the Contract, such Vendor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Vendor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Delaware. The Successful Vendor further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Vendor that such disability prevents performance of the work involved; and

That, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, such Vendor agrees to state that it is an "affirmative action and equal opportunity employer."

2.49 Funding Out Clause

If sufficient support is not appropriated by the Delaware General Assembly or other appropriate federal or state agency to sustain in whole or in part, the DSL's performance under the contractual agreement, or if such support is reduced such that it is insufficient to sustain said performance, the agreement shall be null and void at the insistence of the DSL.

2.50 Scope of Agreement

If the scope of any provision of this RFP is declared to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the Vendors and/or Successful Vendor hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the RFP shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to law.

PART 3 – SPECIFICATIONS

3.0 Introduction

This section describes the systems and services specifications for an Instant Games System, the production, warehousing and distribution of instant game tickets, and the associated marketing services for instant games.

3.1 Instant Games System

The Vendor must propose an Instant Games System capable of handling the immediate and long-range needs of the DSL. The Vendor's Proposal must include the hardware, software, maintenance, remote operation (with hot backup), installation of primary site (in Delaware) and support of the system. The Instant Games System must be capable of providing, at a minimum, the following functions and related services:

- A. Full back-office (internal), on-demand instant ticket management functions and system interface capabilities including, but not limited to:
 - 1. Ability to input, modify, track, report retailer account contact information.
 - 2. Ability to activate retailers, de-activate retailers, and limit retailer instant ticket management functions and privileges.
 - 3. Ability to manage, evaluate, and create periodic and trend reports for individual, group, and retailer network instant ticket inventory and sales activities.
 - 4. Ability to process, evaluate, and create reports for instant ticket prize claims.
 - 5. Ability to manage, evaluate, and create reports for warehouse activities and warehouse instant ticket inventory.
 - 6. Ability to manage, evaluate, and create reports for individual instant ticket games, individual instant ticket packs, or individual tickets throughout the entire instant game life cycle.
 - 7. Ability to provide internal accounting functionality including weekly and on-demand electronic funds transfer for retailers, tax form preparation, and export of data into external electronic accounting systems.
 - 8. Ability to manage internal access and functional privileges within the Instant Games System for DSL and Vendor work groups and individual users.

- B. Full front-end (external and retailer), on-demand instant ticket management functions and system interface capabilities including, but not limited to:
1. Ability to interface with an external gaming system to provide “real time” retailer instant ticket selling and prize redemption activities, inventory management, and account reporting functions through retailer selling terminals.
 2. Ability to interface with external databases to export any retailer account information and accounting data available within the game management system.

3.2 Instant Games Tickets

3.2.1 Technical Specifications and Production

Instant tickets will be provided pursuant to the following terms and conditions:

- A. Game Designs: Game themes, ticket design and prize structure shall at all times be subject to the DSL’s approval. The Successful Vendor will use its best efforts in developing game design, ticket design and prize structure.
- B. Prize Structure: When the prize structure is final, the DSL shall submit to the Successful Vendor the signed and approved Prize Structure specifying the prizes in a game. The Successful Vendor shall then produce the game in accordance with the approved Prize Structure.
- C. Game Name Trademark Search: The Successful Vendor will obtain at its expense a federal trademark search of the name selected for each instant game and an opinion from competent trademark counsel on the advisability of the DSL using the selected name. The Successful Vendor will provide such opinion to the DSL, and the DSL shall review such opinion and decide if the selected name is satisfactory. If it is, such name will be incorporated in the final art of the game. The DSL may at its expense apply for a state or federal trademark on the names chosen for the games.
- The Successful Vendor shall save and hold harmless the State of Delaware, the DSL, the Director, the DSL staff and agents from any and all claims arising out of the use of such trademark, patented design, device, material, or process in connection with the work agreed to be performed under the Contract.
- D. Art Work: The Successful Vendor shall provide the DSL, for approval, a conceptual art design for the front and back of the tickets. The DSL shall indicate desired changes, and new art shall be made based on these instructions. This process shall continue until the DSL shall approve final art by signing the Working Papers with no further changes or instructions. The Successful Vendor will print tickets in accordance with this final artwork, subject to normal printing tolerances.

E. Ticket Specifications: Tickets shall be printed in accordance with the following specifications:

1. Ticket Type and Stock – Game tickets shall be printed on foilless, 10-point virgin, recyclable white card stock, or as otherwise provided in the Working Papers.
2. Ticket Size and Orientation – The ticket size will generally range between 4” X 2” and 4” X 12”, usually printed horizontally or as provided in the Working Papers.
3. Perforations – Perforations must be precise between tickets and shall contain adequate open area between the perforations to allow for satisfactory separation, but not so deep as to allow inadvertent detachment.
4. Imaged Data – Game data may include, but not be limited to, the following items: symbols, legends, captions, retailer codes, ticket numbers, validation numbers, inventory control data, UPC, and bar codes. These must be printed using a computer controlled imaging printer. Game data shall be printed as provided in the Working Papers.
5. Game and Pack Numbers – Each pack of tickets within a game must be identified with a unique, consecutive (except for omissions that occur in production) and non-duplicative game and pack number for use in controlling ticket distribution, retail inventory and accounting. The Successful Vendor must ensure that the same pack number is on all tickets in a given pack and that no pack numbers are duplicated in the game as a whole.
6. Ticket Numbering – Each ticket within a pack will display a unique, sequential number starting with 000 or other number as specified by the DSL in game working papers. In addition, a reference number identifying the number of tickets remaining in a pack on sale will be printed next to the ticket number (e.g. 300-001). The ticket numbers must be consecutive in the pack and no omissions are allowed within a pack. Other numbering systems may be specified by the DSL in the Working Papers of a game.
7. Validation Number – Each ticket will have a validation number that is unique to the game that will be specified in the Working Papers.
8. Retailer Validation Code - Each ticket shall have a validation code for use by retailers for sight validation and paying prizes that will be specified in the Working Papers.

9. Bar Coding – Tickets will be bar coded in accordance with the specifications in the Working Papers.
10. Universal Product Code – The DSL may require that a UPC (Universal Product Code) bar code be printed on instant game tickets, coupons or other printed materials supplied by the Successful Vendor as specified in the Working Papers.
11. Rub-off Material – The rub-off or other exposing material must be opaque and of such quality as to maintain the security of the ticket symbols and validation number.
12. Protective Coating – The game data under the opaque rub-off material must be covered by a transparent protective coating in a manner that the symbols are protected when the consumer rubs off the opaque covering.
13. Front Display Colors – Up to four (4) spot colors or four (4) color process printing may be used on the front of tickets at the DSL's option and will be specified by the DSL in the Working Papers. Spot colors may be specified by the DSL as PMS (Pantone® Matching System) colors or equivalents.
14. Back Display Colors – The back of tickets may be printed with one (1) specified color. Ticket back color will be specified by the DSL in the Working Papers.
15. Overprint Colors – An overprint design with up to four (4) colors shall be printed on the rub-off latex material. The overprint colors will be specified by the DSL in the Working Papers.
16. Winner Validation Media and Omission Data Files – The Successful Vendor must provide a CD with separate files that contain all winner validation data encrypted according to technical specifications approved by the DSL, and omitted packs for each game. The CD must be provided to the DSL at the time of ticket delivery.
17. Packaging – Each pack of tickets will be assembled so that the first and last ticket numbers are visible. Packs of tickets must be fan folded in continuous strips. Each pack must be shrink-wrapped and the wrapping intact. Any additional packaging requirements will be specified in the Working Papers.
18. Cartons – The number of packs of game tickets (less omissions) as specified in the Working Papers must be placed in sealed cartons. Each carton must have the following statement printed or stamped on it: **“This box contains materials that are registered by number and which will be void if stolen.”** Each carton must have a label indicating the name of the game, box number, “from –

through” pack numbers, amount of packs in the box and the number of omitted packs, if any. Labels and other markings on the carton must not be obscured.

19. Skids – Shipping cartons must be packed on skids (pallets) of an agreed upon size in sequential order secured by stretch wrapping plastic.
 20. Skid Labels – A skid label showing the game name, the lowest and highest carton numbers loaded on the skid, the skid number for the game, and any omitted cartons must be affixed to each skid load of cartons.
 21. GLEPS (Guaranteed Low-end Prize Structure) – If required by the Working Papers, in each book of tickets there will be a guaranteed value of low-end prizes.
- F. Number of Tickets per Game: The number of tickets per game shall be determined by agreement between the Lottery and the Successful Vendor. The agreed number of tickets (delivered with plus or minus 2% of ordered quantity) and the sales period for each game shall be stated in the Working Papers for each game.
- G. Production Schedule: The production schedule shall be included in each set of Working Papers, clearly specifying when the tickets will be produced and shipped. The production schedule shall be dependent upon the execution date of the Working Papers.
- H. Warehousing: The Successful Vendor will be responsible for the storage of tickets from the time they are printed until they are distributed. The Successful Vendor shall operate and maintain a secure DSL approved computer, office and warehouse facility within the State of Delaware and shall be responsible for all associated costs and expenses.
- I. Ticket Deliveries:
1. Delivery – Tickets must be delivered FOB to the Successful Vendor’s DSL approved warehouse. Continuous and uninterrupted delivery, without storage, must be made in accordance with the delivery schedule specified in the Working Papers.
 2. Shipping Reports – Each ticket delivery by the Successful Vendor must be accompanied by a Shipping Report. The report will list gross number of tickets, number of omitted tickets, and net number of tickets and omissions by pack number. The delivery truck’s seal number will appear on the freight bill, shipping report and bill of lading.
 3. Shipping Control Manifest – At the time of delivery, the Successful Vendor will provide the DSL with a list of packs delivered and omitted from each pool (or portion of pool) being delivered. Omitted packs will be listed by the DSL as

ineligible to win any prize and must not be considered as valid tickets in the game.

4. Time Schedule – The Successful Vendor, in cooperation with the DSL, will develop a schedule of game deliveries to ensure an ample supply of tickets for supplying the distribution network.
- J. Non-conforming Deliveries: Should the result of any test or inspection by the DSL fail to meet the requirements contained in **Section 3.2.1**, the game tickets found to be non-conforming may be rejected by the DSL. The DSL shall provide the Successful Vendor with written notice of rejection of any tickets. The Successful Vendor shall replace or credit the tickets within a reasonable time after written notice. The DSL shall retain the right to provide the Successful Vendor with a notice of possible interruption of sales due to rejected tickets, and the Successful Vendor shall cure any such non-conforming delivery within a reasonable time of such notice.
- K. Audit Requirements: The DSL may conduct an audit of the Successful Vendors records and operations, including data or security systems, as they relate to the DSL either by the DSL's own auditors or by an independent firm specified by the DSL. The DSL shall give the Successful Vendor notice of at least three (3) business days prior to the audit, which shall be conducted during regular business hours.
- L. Rules and Regulations: The Successful Vendor shall draft a complete set of proposed Rules and Regulations for each game for adoption by the DSL for the purpose of defining the rules of the game. The DSL shall secure adoption of the game rules as administrative procedures in accordance with State law on a timely basis before the beginning of sales of game tickets to the public. Each ticket shall contain reference to the applicability of the Rules and Regulations and State law. Rules and Regulations shall contain the following wording (or other wording approved by the DSL): All tickets, transactions and winners are subject to Rules, Regulations and Game Procedures of the DSL and State law. Tickets are void (and the DSL will not be obligated to pay) if they fail to meet requirements of game regulations or any DSL validation test. Liability for void ticket is limited to replacement of ticket or refund of sales price.

3.2.2 Distribution

- A. New Games: The Successful Vendor will be required to package and distribute up to six (6) new instant games including game supplies (game related POS items) once or twice a month to all retailers. The Successful Vendor may be required to include additional materials in packages containing tickets to be delivered to retailers, at no additional cost the DSL. New game releases are to be delivered the same business day to all retailers. Proof of delivery must be obtained.

B. Daily Ticket Orders: The Successful Vendor will be responsible for the filling, packaging, and distribution of ticket orders. The Successful Vendor may be required to include additional materials in packages containing tickets to be delivered to retailers, at no additional cost the DSL. Delivery must be made no later than one business day after the order is placed. Proof of delivery must be obtained.

C. Returned Tickets: The Successful Vendor will be responsible for the return and warehousing of undeliverable, unaccepted and unsold tickets.

D. Ticket Destruction: The Successful Vendor must provide for the secure disposal of unsold, damaged and/or returned tickets in an environmentally responsible manner. The DSL may also require secure disposal of void and second chance drawing tickets. Ticket destruction should be DSL approved and witnessed by DSL Security personnel.

E. Telemarketing: The Successful Vendor will be required to perform instant game ticket telemarketing services to retailers. Telemarketing services will include a weekly telephone call to each DSL licensed retailer for retailer instant ticket order placement.

3.3 Instant Games Marketing

The Successful Vendor will coordinate the marketing and sales of instant game tickets with the DSL and its advertising agency. The Successful Vendor must apply its best efforts to assist the DSL in game design and marketing and to recommend and evaluate game designs in assisting the DSL to maximize marketing and sales objectives. In addition, the Successful Vendor will perform the following specific services:

1. Voided Tickets: The Successful Vendor will provide 7,200 actual size voided tickets for each game.
2. Oversized Samples: The Successful Vendor will provide at least 600 oversized (6½" X 11") facsimile game tickets printed on two sides. One side will show the ticket front covered and uncovered with a "call to action" selling statement representing feature(s) of the game. The other side will show covered and uncovered ticket art along with "how to play" instructions and game information details.
3. Promotional Allowance: The Successful Vendor will provide the DSL with a promotional/research allowance not to exceed \$50,000 per contract year to the Lottery for programs mutually agreed to by the Lottery and the Successful Vendor.
4. Game Planning Sessions: The Successful Vendor will participate in instant game planning sessions with the DSL at a minimum of twice yearly. These sessions will be conducted at the DSL Office in Dover, Delaware and should include the presence of expert account management, marketing and creative design Vendor staff personnel.

5. Support for DSL's Partnership with Retailers: The DSL's goal is to achieve a high level of retailer rapport in order to effect maximum lottery ticket sales. The Vendor must propose to interface and cooperate with the DSL regarding services provided to the retailers by the Vendor.
6. The DSL will require the successful vendor to provide one (1) game each year printed on "holographic" paper, or a premium paper of similar value.
7. The successful vendor will act as the DSL's agent in procuring licensed properties and related merchandise to be used as themes for instant games.

3.3.1 Marketing Staff Support

The Lottery has identified in the RFP specific, dedicated staffing positions. The Vendor must also propose additional dedicated staff to conduct and/or support required Vendor services. The Vendor must provide a Staffing Plan including a detailed organizational chart depicting the reporting structure for the following staffing requirements:

1. Full-time, in-state, dedicated personnel consisting of one (1) Marketing Manager, three (3) Field Marketing Representatives to assist the Lottery in executing its instant ticket program with retailers and players;
2. One (1) dedicated, in-state technical specialist available to provide support and problem resolution for the Instant Games System during all business hours;
3. Additional staff or Lottery-approved services to provide adequate administrative and operational support for all other requirements of the RFP including, but not limited to:
 - a. A minimum of two (2) full-time, dedicated staff members to operate in-state telemarketing services and warehousing management operations to efficiently provide a weekly telephone call to each licensed retailer for instant ticket order placement and same-day shipping of all orders received.
 - b. Daily (week day) scheduled and on-demand instant ticket delivery and pick-up from retailers.
 - c. Other staff or contracted services required for day-to-day operation of the DSL instant ticket program.

Once the Vendor has identified dedicated full-time personnel and services for specified positions and other required functions under the RFP, the staffing and services level must remain at least at that level. Positions identified in the staffing plan must be dedicated solely to supporting the DSL instant ticket program and activities identified in the RFP.

3.4 Support Staffing and Services

The Successful Vendor is required to provide the DSL with a variety of staff and support services as defined below.

3.4.1 Vendor Personnel

The Vendor must provide information, as specified below, that documents its organizational structure and the staffing with which DSL instant game operations will be implemented and run.

1. Implementation and Conversion Staff. The Vendor shall provide an organization chart showing names of all **management, supervisory, and key technical personnel** who will be active in the implementation and conversion of the DSL Instant Games System and marketing activities. Further, the Vendor must indicate what specific Contract function(s) they will perform and how long it is anticipated they will be engaged. Additional support staff need not be named but can be listed by title and quantified.
2. Ongoing DSL instant games Operations Staff. The Vendor shall provide an organization chart showing names of all **management, supervisory, and key technical personnel** who are expected to be active in the ongoing operation of the DSL Instant Games System. Further the Vendor must indicate what specific Contract function(s) they will perform. Additional support staff need not be named but can be listed by title and quantified.
3. Resumes and Qualifications. The Vendor shall provide resumes of all **management, supervisory and key technical personnel** planned to be involved in the installation, implementation, and operation of the DSL Instant Games System, and shall provide for each such person:
 - A. Full name;
 - B. Most recent five (5)-year employment history;
 - C. A specific description of lottery experience that person has in connection with Instant Game Systems;
 - D. Specific indication of what role the individual will have in this project;
 - E. Any additional helpful information to indicate the individual's ability in successfully performing the work involved in the Contract resulting from this RFP.

During the Proposal evaluation, the DSL reserves the right to require a separate and confidential

submission of social security number, date of birth, and home address of the Vendor's management, supervisory, and key technical personnel as part of a security review prior to considering the award of a Contract. Such a submission, if needed by the DSL, shall follow notification by the RFP Evaluation Committee Chairperson.

3.4.2 Instant Game System Training

The Successful Vendor shall provide training to the DSL.

1. DSL Staff Training. **The Successful Vendor must provide training for DSL staff, on site at the DSL offices, or as appropriate.** The Vendor shall describe in the Proposal what training will be provided to DSL staff, primarily:
 - A. Instant Games System operation, management and functionality; and
 - B. Instant Games System interface capabilities with third party on-line gaming systems.

3.4.3 Technical Support Services

Timely and committed fulfillment of DSL requests for Instant Games System support and improvement is a requirement. The Vendor's Proposal must identify how systems and software engineering support services for management, error correction, and game changes will be delivered to Delaware. Support for change testing is included in this requirement.

3.5 Vendor Corporate Capability

The Vendor is required to demonstrate corporate experience, technical capability, and financial means to support this Contract.

3.5.1 Corporate Background Review

The Vendor shall provide the following information:

1. Name and address of the business entity making the Proposal.
2. Place of incorporation, or other form of organization, if applicable.
3. Name and location of major offices, plants and other facilities that relate to the Vendor's performance under the terms of this RFP.
4. Name and location of major offices, plants and other facilities that relate to the Vendor's performance under the terms of this RFP.
5. Name and location of major offices, plants and other facilities that relate to the Vendor's performance under the terms of this RFP.

6. Name, address, and function of major subcontractors, associated companies, or consultants that have been or will be involved in any phase of this project.
7. Name, address and telephone number of Vendor's representative to contact regarding all **contractual matters** concerning this Proposal.
8. Name, address and telephone number of Vendor's representative to contact regarding all **technical matters** concerning this Proposal.
9. Vendor's Federal Identification Number.

3.5.2 Instant Games Systems Experience

It is required as a minimum that the Vendor has supplied a lottery with an Instant Games System(s) comparable to the specifications of this RFP.

The Vendor shall describe, in detail, the current and historical experience of the Vendor with Instant Games Systems; that is, descriptions and references of gaming industry engagements of comparable complexity and sensitivity which have been conducted by the Vendor.

Each experience statement shall include the following details:

- Name of lottery or gaming enterprise(s) and size of contract (annual sales, population of lottery/gaming jurisdiction).
- The term of the Contract including effective dates.
- Reason for Contract end, if the Contract is no longer in effect.
- Types of services directly provided by the Vendor under the Contract and whether the Vendor was a prime contractor or subcontractor.

The descriptions must include names, titles, addresses and telephone numbers that may be contacted to verify qualifying experience. If the experience is provided by a teaming partner or a subcontractor that will provide a major part of the products and services, then experience information for that entity must be included.

3.5.3 Contract Performance

The Successful Vendor must be a business in good standing with its customers and the business community. The Vendor shall state whether any of the following have occurred:

1. Terminations. During the last five (5) years, the Vendor has had a Contract terminated for default or cause.

If so, the Vendor shall submit full details including the other party's name, address and

telephone number.

2. **Suspensions.** During the last three (3) years, the Vendor, a subsidiary or intermediate company, parent company or holding company was the subject of any order, judgment or decree of any federal or state authority barring, suspending or otherwise limiting the right or license of the Vendor to engage in any business, practice or activity or, if trading in the stock of the company, has ever been suspended with date(s) and explanation(s).

If the experience is provided by a teaming partner or a subcontractor that will provide a major part of the products and services, then the same performance information as above must be included for that entity.

3.5.4 Software Development and Support Capabilities

Capacity to provide the software and systems support is critical to the project.

1. **Software Development Plans.** The Vendor shall describe its capability, capacity and plans for developing and maintaining software proposed to meet the requirements of the RFP.
2. **Software Quality.** The Vendor's Proposal must address quality software engineering practices, and in particular whether the Vendor is certified under the most current ISO series, SEI CMM, or other recognized quality practices standards.

3.5.5 Corporate Quality Program

The Proposal must address the Vendor's (and any major subcontractor's) corporate philosophy on providing quality products and services to its customers. As part of this disclosure, the vendor may include items such as the customer complaint resolution process, results of surveys conducted for customer satisfaction levels against pre-established performance measures, any vendor or customer partnering activities and any continuous quality improvement programs instituted.

The DSL considers improving customer satisfaction of paramount importance in its multi-faceted approach towards continuous quality improvement. As a part of this effort, the DSL conducts research by means of semi-annual surveys of traditional lottery retailers and players to measure their levels of satisfaction with the services offered not only by the DSL but also its vendor partners. The DSL would like the Successful Vendor to participate in this program in the following areas:

- A. Inputting into design of surveys
- B. Evaluating survey results
- C. Implementing appropriate service improvement action steps

Please describe the extent to which your organization would participate in this research effort.

3.5.6 Research and Development Program

The success of the DSL depends on the availability of new products, gaming features, and services. The Successful Vendor must be capable of supporting the DSL in this mission.

The Vendor shall describe its capability, capacity and plans for maintaining a research and development effort in such areas as game design, new gaming concept development and operation, and supporting software, hardware and systems.

3.5.7 Financial Viability

In order to ensure the Vendor's financial ability to perform under the Contract, the DSL requires the following financial information:

1. Financial Statements. Most recent financial statements for the Vendor must be submitted. If the Vendor is a subsidiary of another corporation, the financial statements of the Vendor, as well as the consolidated financial statements of the parent company, shall be submitted. If the Vendor is a parent corporation, parent-only financial statements, and if available, statements for the operating division that will perform these services shall be submitted. These statements shall be prepared in accordance with generally accepted accounting principles.

One copy of this documentation shall be filed with the narrative/technical proposal.

2. SEC Filings. The most recent 10-K and 10-Q filings with the Securities and Exchange Commission (SEC), if available. Only the 10-Q filings since the last 10-K need to be filed.

One copy of this documentation shall be filed with the narrative/technical proposal.

3. Parent Resources. If the Vendor is a subsidiary and will rely on the financial resources of the parent to perform this Contract, the parent must certify, in writing in a form acceptable to the DSL, the availability of its resources to the Vendor.
4. External Borrowing. The Vendor must provide a letter of commitment in a form acceptable to the DSL from a creditor acceptable to the DSL, if outside borrowing will provide any or all of the funding for this project.

3.6 Instant Games Management Processing

3.6.1 DSL Computer Workstations

The DSL has a local area network on which reside Windows-based personal computer workstations that will perform the games monitoring and management functions conducted by

DSL staff. These workstations (equivalent to or greater than one dual Core processor with 2GB RAM, Windows XP or 7, TCP/IP) will be furnished by the DSL. The Successful Vendor shall provide any customized management terminal software.

3.6.2 Management User Interface

The Vendor should describe how the management terminal user interface is similar to a web browser style of interface, with which the DSL staff is familiar.

3.6.3 Management Software Features and Capabilities

1. Management Reports. Reports must be viewable on screen, and directable to a printer or to a disk file. The DSL will determine final report formats and display options with the Successful Vendor.
2. Secure Use. Use of management software must be password and audit trail protected. All management sign on attempts whether successful or not must be logged. Log entries must reference the time, date and valid/invalid sign on attempts. **All transactions through the management software representing modifications to the Instant Game System must be logged and protected by verification steps.** User codes and passwords (as well as the security levels and report/function access availability) will be supplied by the DSL to the Successful Vendor as necessary.
3. Management Software Features
 - A. Password Protections. The management workstations must have a hierarchical security scheme that allows system access to specified personnel only. The security scheme must be able to accommodate a minimum of forty (40) individuals of various security levels. Any entry of passwords or security codes must either not print or print over a "blacked out" area so as not to be displayed on the user's terminal.

The System must preclude the use of trivial or generic passwords--such as single characters and common dictionary words--and require periodic password changes. Password length must be at least six characters. Passwords will not be allowed to be reused within a 12-month period.
 - B. Limited Menu. The management workstation should have a "menu" request for prompting purposes which permits the individual to see only those functions/reports they can perform based on security level and entered password.
 - C. Game Control. Ability to shut off and resume all validations on each game independently.
 - D. Retailer Accounting Adjustments. Ability to make adjusting entries to retailer

accounts with a complete audit trail of adjustment amount, date of adjustment, user who entered the adjustment, and a description/reason for the adjustment. Frequently utilized adjustment types must be categorized.

4. **Game Monitoring.** Ability to observe statistics on the operation of the Instant Games System by game or retailer.
5. **Settlement.** The Instant Games System must have the ability to produce settlement reports, and an EFT file in the appropriate banking format. The Instant Games System must have the ability to summarize all sweep information for a chain account into a single report and process.
6. **IRS Reporting.** The Instant Games System must produce 1099 and W-2G files, forms and reports in accordance with IRS standards.
7. **The Successful Vendor** agrees to maintain records on a calendar year basis of the commissions paid to retailers and provide the information to the Lottery on magnetic media or by electronically transmitted file within ten (10) business days after the end of each calendar year.

3.6.4 System Security

The Proposal shall describe how the following security matters are supported by the Instant Games System, policies, and processes:

1. **Segregation of Duties and Privileges.** Implementation and maintenance of an organizational structure and user authorizations that provide for segregation of duties.
2. **Hacking Avoidance.** Prevention of unauthorized electronic penetration into the Instant Games System.
3. **Undesirable and Unauthorized Software.** Prevention of the introduction of unwanted software into the Instant Games System including software viruses, worms, and Trojan horses.
4. **Control Totals.** Standard accounting measures for cross-tabbing and control totals shall be employed wherever feasible to ensure that data presented are in balance.

3.6.5 Data Management and Reporting

1. **Database Access.** The DSL requires access to retailer data, sales records, and daily transactions for ad hoc reporting. Query and report software is required on a client-server basis with the DSL's management terminals. The DSL's access to this data will be read-only.

It would be sufficient to operate on a separate copy of the data from that on the Instant Games

System, since the DSL does not intend any negative impact on production operations or gaming response time while obtaining useful reports on retailers and sales.

2. History. The database must contain at least twenty four (24) months of sales and retailer statement history. Older data must also be available, at least from archives.

3.6.6 Management and Administrative Reports

The System must timely produce a wide assortment of management and administrative reports for use by the Successful Vendor and by the DSL.

1. Chain Reporting. One special category of administrative reports is chain reports that display sales and inventory data at an authorized chain headquarters terminal, reporting on that site, another site within the chain, or all sites within the chain. The Proposal must address what special treatment can be provided for chain accounts.
2. Business Codes. By SIC (Standard Industrial Classification business codes).

3.6.7 Foreign System Interfaces

The Vendor's Proposal must identify mechanisms by which the proposed DSL Instant Games System can interface with other instant and on-line systems and gaming terminals. The use of standard software languages, interface and reporting tools, and communications protocols must be identified.

3.6.8 Solomon/Check Writing Interface

The DSL uses the Solomon accounting package for accounting and for Quicken check writing. The Successful Vendor must provide a transaction file daily for the DSL to confirm and pay winning tickets that require a check.

3.6.9 Validation after Conversion

The Successful Vendor must accommodate validation of winning tickets that have been sold prior to the conversion, either by reading the bar code or by accepting manual entry of the "old" winning ticket's serial number. The goal, both during conversion and after, is to minimize confusion and effort for the customers and retailers.

3.6.10 Conversion of Existing Sales and Retailer Information

The Vendor's conversion program must include the conversion of existing data, in order that the DSL can generate reports comparing current with past operations.

PART 4 – PRICING

4.0 Introduction

This section describes the manner in which the Vendors will submit pricing for the Lottery's consideration.

4.1 Separately-Sealed Price Proposal

The Vendor is required to provide pricing in a separately sealed Proposal. The price Proposal must include a submittal letter signed by an individual authorized to obligate the company to the Proposal.

4.2 Duration of the Price Proposal

The Price Proposal must be valid for four (4) months.

4.3 Form of the Price Proposal

The Vendor will acknowledge that this is the only form of compensation it will receive under a contract resulting from this RFP.

The Vendor must submit pricing in the following format.

1. Vendor-Proposed Compensation. Pricing as a percentage of **net instant game sales** given in the format X.dddd where X represents the whole number value and d represents decimal digits. The price quotation sheet to follow in this section contains the DSL instant games sales estimate for the Contract base period for purposes of evaluating the Proposal.

Example: 1.0000 percent or \$10,000 compensation per one million dollars.

2. Pricing for Offered Options.

To Be Determined (TBD) pricing is permitted only for Offered Options.

4.4 Pricing and Scoring of Options

The Vendor is encouraged to propose options regarding innovative functions, features, services, and solutions. **However, these options must be clearly noted in the Narrative/Technical Proposal (although without pricing information) and their corresponding prices listed in the Price Proposal as separate line items.**

To make the evaluation tractable, the Evaluation Committee intends to score only:

1. Baseline features and services.
2. Offered Options specifically included by the Vendor in the base price.

Response Note: The Lottery will not score Offered Options that are separately priced and designated outside of the baseline price, as defined in the Vendor's Narrative/Technical and Price Proposals. Such options may be considered at Contract negotiation time or later. Those options that are included within the baseline price may or may not favorably influence the Vendor's proposal score in the relevant technical section.

4.5 Determination of Net Instant Game Sales

At the end of each DSL Accounting Period (Monday through Sunday), Total Net Sales for the period will be calculated to determine the amount subject to compensation.

The calculation of Total Net Sales will be determined by the DSL based upon all instant game tickets charged to retailer accounts during a DSL Accounting Period, net of all credits and/or adjustments issued to retailer accounts during the same period.

1. Charges to retailer accounts occur when the DSL deems full packs of instant tickets "Fully Sold" for sales or administrative reasons.
2. Credits to retailer accounts occur when:
 - A. The DSL receives returns from retailers of full or partial packs of instant tickets that have been previously charged to retailers.
 - B. The DSL issues credits for full or partial packs of stolen or damaged instant tickets, documented in a reported crime or accident, that have been previously charged to retailer accounts.
3. Adjustments to retailer accounts occur when the DSL determines partial or full packs of instant tickets have been previously charged or credited to retailer accounts in error.
 - A. No adjustment will be made for "free ticket" prizes or promotional tickets given away by the DSL.

4.6 Price Quotation Sheet

1. Base System Pricing:

Vendors are required to quote the following items as a percentage of net instant game sales, carried to four (4) decimal places. The basis is a three (3) year contract base period. **TBD pricing is not allowed.**

- A. Price quoted as a percentage of net instant game sales (instant game sales estimated at \$120 million over three years).

Price as a Percentage of Net Instant Game Sales _____percent

Estimated Price – Three-Year Base Period \$ _____

2. Offered Options:

The Vendor **may** attach sheets for any Vendor-offered optional items. Clearly identify the items offered and the terms under which they are offered. Vendors are not required to submit any Offered Options. **To Be Determined (TBD) pricing is permitted.**

PART 5 – PROPOSAL EVALUATION

5.0 Introduction

This section describes the evaluation process that will be used to determine which Proposal provides the greatest overall benefits to the Lottery and to the State. The ability of the Lottery to evaluate a Vendor's Proposal is dependent upon the completeness and proper submission of the Proposal. The failure of a Vendor to provide information requested by this RFP, to submit according to the required format, or to respond appropriately to a clarification request or demonstration request, may result in rejection of the Vendor's Proposal or reduction in scoring during the evaluation. The evaluation process is governed by 29 Del. C. Ch. 48 and §§6981-2.

5.1 Evaluation Committee and Lottery Director

The Lottery intends to conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. In making this determination, the Lottery will be represented by an Evaluation Committee. The Committee will evaluate each Proposal that is properly submitted by a responsible Vendor. The Evaluation Committee will provide its findings to the Lottery Director. The Lottery Director will then review the process, and issue a Notice of Award.

5.2 Evaluation Steps

The evaluation and award process will be comprised of all of the following:

1. Review of Proposals to assess compliance with Proposal submission requirements, including responsiveness to terms, conditions and requirements;
2. Detailed evaluation of proposed functions, features, services, and references, using the requirements and criteria defined in this RFP;
3. Proposal clarifications, presentations and demonstrations (as determined necessary by the Evaluation Committee);
4. Scoring of Narrative/Technical Proposals and Presentation;
5. Assessment and Scoring of Price Proposals;
6. Compilation of technical scores and price scores into a summary score sheet;
7. Review and approval by the Lottery Director;
8. Issuance of Notice of Award; and
9. Negotiation and signing of the Contract.

5.3 Information from Other Sources

The Lottery reserves the right to obtain, from credible sources other than the Vendor, information concerning a Vendor, the Vendor's offerings and capabilities, and the Vendor's performance, that the Lottery deems pertinent to this RFP and to consider such information in evaluating the Vendor's Proposal. References will be checked regarding the Vendor's past performance.

5.4 Narrative/Technical Proposal Scoring

Each of the narrative/technical (non-price) factors in **Part 3** will be graded by the Evaluation Committee based on its best professional judgment, considering all Proposal text, clarifications, reference checks, and any presentations, interviews, demonstrations, and qualified sources of information. A weighted scoring system will be used.

The weighted scoring system will provide numerical scores that represent the Committee's assessments of the relative technical merits of the Proposals. The scores will be used to develop a preference ranking based on non-price factors.

The scoring approach will involve grading seven technical and management criteria, multiplying the grades by the weights available for each, and then summing up.

5.4.1 Criteria and Weights (Available Points)

The weights (available points) for each of the evaluation criteria are:

TECHNICAL EVALUATION CRITERIA		
Section 3.1	Instant Games System	30
Section 3.2	Tickets	30
Section 3.3	Marketing	30
Section 3.4	Supporting Staff and Services	25
Section 3.5	Corporate Capability	10
Section 3.6	Instant Games Management Processing	15
Section 5.6	Oral Presentation and Demonstration	<u>10</u>
		150

Although the criteria will be scored using larger and smaller weights, the Vendor is cautioned that every criterion reflects requirements that must be met regardless of the criterion's weight; and that a poor response to a lesser-weighted criterion still can have a significant impact on the Vendor's final technical score as compared with other Vendors' scores.

Instant Game Tickets and Related Services

5.4.2 Minimum Scores for Evaluation

A technical rating of less than 60% on any of the seven criteria, or a total technical rating below 70% (i.e., less than 105 of the available 150 points) will render the Proposal ineligible for further consideration.

5.5 Price Evaluation

Price evaluation will occur after the narrative/technical scoring, and will involve only the Proposals that are acceptable based on:

1. Meeting proposal submission requirements and compliance with mandatory technical requirements (“responsive”).
2. The achievement of a total technical score of at least 70% of available points.
3. The achievement of a technical score of at least 60% of available points on each of the technical evaluation criteria.

For each Proposal, the Lottery price evaluation will be based on the Vendor’s proposed price, as prescribed in **Part 4** of this RFP.

The Evaluation Committee will then award up to fifty (50) points for price based on a ratio of the Proposal being evaluated versus the lowest-cost acceptable Proposal. The formula for any particular proposal being evaluated is:

$$\text{PRICE POINTS} = 50 \times (\text{LOWEST COST/PROPOSAL COST})$$

Under this formula, the lowest cost acceptable Proposal receives all the fifty (50) available price points. A Proposal twice as expensive as the lowest cost acceptable Proposal earns half (1/2) as many, or twenty-five (25) price points.

5.6 Presentations and Demonstrations

Vendors shall make oral presentations and demonstrations of the proposed products, equipment and related services to supplement proposals as requested by the DSL. These presentations will be held at the DSL Office subsequent to the receipt of the Vendor’s proposal and will provide an opportunity for the Vendor to further demonstrate its capabilities to perform the services as described in this RFP. Vendors should contact the Issuing Officer to schedule a date and time for their presentation. Vendors will be offered their choice of presentation date and time slots on a first come, first served basis.

Presentations will be conducted in an informal manner, using whatever method the Vendor selects. Each presentation will be private, to be held in confidence by the DSL Evaluation Committee. Presentations shall be for the purpose of clarification to ensure mutual understanding

and in no way may they change a proposal. Each Vendor will be allowed a maximum of two hours. Any verbal statements made by the Evaluation Committee at any time or place shall be considered unofficial expressions. Any verbal question that comes from these presentations will be answered in writing by the Evaluation Committee and must be construed by Vendors as the only official DSL reply.

Vendors will be expected to present (without limitation):

1. Samples of ticket designs and recommendations;
2. Any special capabilities or other innovative services;
3. The key personnel who will be assigned to the DSL account;
4. The Vendor's organizational structure and plan for working with the DSL;
5. Transitional plan and schedule; and,
6. Schedule for first ticket production

Please note that the demonstration of commitment to service and ability to work with the personnel and procedures of the DSL will also be important factors included in the evaluation of the oral presentations.

5.7 Negotiations and Award

The Evaluation Committee based on their review of the Proposal and their analysis of the evaluation criteria shall recommend to the Lottery Director, the Vendor or Vendors with whom he should consider negotiating.

The Lottery Director may negotiate with one or more vendors concurrently and may, at his discretion, terminate negotiations with any or all vendors. The Lottery Director shall have final authority, subject to the provisions of this RFP and 29 Del. C. Ch 69 § 6982, to award a contract to the Successful Vendor in the best interests of the Lottery.

APPENDIX A: GLOSSARY OF TERMS

Bond	A bond, letter of credit, or alternative security in form and substance and issued by a company acceptable to the DSL.
Business Day	Current operating hours for the traditional lottery is 6:00 a.m. through midnight.
Business Week	The period beginning on Monday and running through the end of the day the following Sunday, which serves as an accounting unit.
Committee	The DSL Committee responsible for developing this RFP and evaluating proposals.
Contract	The written agreement resulting from the successful proposal and subsequent negotiations, which shall incorporate, among other things, this RFP and the Successful Vendor's proposal, and all modifications hereto and thereto, and in addition shall contain such other terms and conditions as may be required by the DSL and acceptable to the Successful Vendor.
Director	The Director of the DSL as established by Title 29, Chapter 48 of the Delaware Code.
Instant Games	Games sold to the public on pre-printed tickets containing play data under a latex coating or such other coating as may be approved by the DSL. Removal of the coating by the customer reveals whether or not the customer is a winner. Instant tickets also contain a unique bar code allowing them to be processed by terminals using bar code readers.
Intellectual Property Rights	Any rights with respect to inventions, discoveries, or improvements, including patents, patent applications and certificates of invention; trade secrets, know-how, or similar rights; the protection of works of authorship or expression, including copyrights and future copyrights; and trademarks, service marks, logos, and trade dress; and similar rights under any laws or international conventions throughout the world, including the right to apply for registrations, certificates, or renewals with respect thereto, and the rights to prosecute, enforce and obtain damages.

Option(s)	A feature or capability for which the DSL makes no schedule or quantity commitments, but which may, at the DSL's sole discretion, be exercised.
Pack	A book or pack of instant game tickets
Person	An individual, partnership, joint venture, registered limited liability partnership, association, corporation, limited liability company, trust, unincorporated organization or any other entity, business or enterprise, authorized to do business in the State of Delaware.
Proposal	All materials submitted by a Vendor in response to this RFP, together with all amendments thereto.
Report	Information produced by the Instant Games System that is viewed via computer, printed, or saved to a file depending on the needs of the DSL.
Retailer	A retail agent licensed by the DSL to sell lottery tickets.
RFP	Request for Proposals, together with all amendments hereto, developed for the purpose of soliciting responses from potential Vendors.
Subcontractor	For purposes of this RFP, when creating obligations or bearing restrictions, the term "subcontractor" refers to a firm retained by the Vendor to provide a material and continuing contribution to the completion of the project.
Successful Vendor	The Vendor to whom the DSL awards and with whom the DSL executes a Contract pursuant to this RFP.
Validation	Process by which winning tickets are checked against computer files, to ensure that the ticket presented is valid, and that it has not been redeemed previously. Validations apply to both on-line and instant tickets.
Validation Code	A security feature of instant tickets printed under the latex (or other coating).
Vendor	A firm qualified to submit a proposal in response to this RFP.
Working Papers	The contract for an instant game that includes but is not limited to: art design, play style, ticket size and prize structure of the game; validation, printing, packaging and shipping specifications for the game.

APPENDIX B: BACKGROUND

The DSL usually offers between thirty-five (35) and fifty (50) instant games per year. Ticket quantities vary, but are not limited to, between approximately one hundred twenty thousand (120,000) and one million two-hundred thousand (1,200,000) tickets per game. The ticket price points will be \$1.00, \$2.00, \$3.00, \$5.00, \$10.00 and \$20.00 or as specified in the Working Papers. Tickets are distributed and sold through a network of approximately five hundred fifty (550) retailers located throughout the State.

During fiscal year 2011 the Lottery introduced forty-four (44) instant games with a total print run of thirteen million six-hundred twenty thousand (13,620,000) tickets. Forty-five (45) instant games are planned for fiscal year 2012 with anticipated print runs totally approximately fifteen million three-hundred sixty thousand (15,360,000) tickets. The DSL does not guarantee any quantities or estimates stated.

The DSL currently utilizes Scientific Games International, Inc. (SGI) Games Management System (GMS) for instant ticket accounting, validation and inventory control. DSL retail locations use a PC-based WAVE terminal for lottery transactions. Instant ticket data input from the retailers is via bar code read by a scanner and is used to validate winning tickets as well as to receive and activate packs.

APPENDIX C: INSTANT GAMES RETAILER REPORTS

Retailer instant game reports must be available on demand on the on-line terminals in the sales retailer's location and be able to support, but are not limited to, the business functions listed below. The DSL will use a variable length ticket format to accommodate reports. Actual report formats and wording are to be negotiated with the DSL and subject to final approval. Any references to specific wording requirements in the following reports simply represent the meaning that is to be conveyed. This list of reports is not intended to represent an all-inclusive list of the reports required by DSL.

List of expected reports:

1. Instant Tickets (report duration to include - daily, each of the last 7 days, current business week-to-date, and complete previous business week).
 - A. Game and Pack Information (detail and summary)
 - 1) Instant Games on Sale
 - 2) Pack Activation History
 - 3) Received and Activated Packs
 - 4) Pending Returns
 - 5) Shift Reports
 - 6) Inventory Summary and Detail
 - B. Weekly Reports
 - 1) Combined Settlement
 - 2) Weekly Settled Pack Detail
 - 3) Weekly Cash Detail
 - 4) Adjustment Detail
 - 5) Weekly Return Detail
 - C. Week-To-Date Reports
 - 1) W-T-D Activity
 - 2) W-T-D Settled Packs
 - 3) W-T-D Cash Detail

D. Daily Reports

- 1) Daily Activity
- 2) Daily Settled Pack Detail
- 3) Daily Cash Detail
- 4) Daily Returns Detail

2. Settlement reports shall provide both On-line and Instant detail combined into a single settlement statement. Report duration will be current business week-to-date and complete previous business week.

APPENDIX D: INSTANT GAMES MANAGEMENT REPORTS

On-demand instant games management reports must be available as requested at management terminals and be able to support, but are not limited to, the business functions listed below. All information available in the on-demand management reports must be available for on-screen display on management terminals. Actual report formats and wording are to be negotiated with the DSL and subject to final approval. Any references to specific wording requirements in the following report descriptions simply represent the meaning that is to be conveyed. This list of reports is not intended to represent an all-inclusive list of the reports required by DSL.

1. Claims Management
 - A. Claim History Detail
 - B. Check Register
 - C. Winners List
2. End-Of-Year Reports
 - A. 1099 Summary
 - B. 1099 Detail
 - C. W2-G Summary
3. Instant Games Reports
 - A. Activation and Returns Summary
 - B. Sales Representative Scheduling
 - C. Ended Games
 - D. Game Statistics
 - E. Game Status
 - F. Inventory Reports
 - G. Liability Reports
 - H. Pack History
 - I. Retailer Cashes
 - J. Settlements
 - K. Stolen Tickets
 - L. Missing Tickets
4. Retailer Accounting Reports
 - A. Activity Sales Detail
 - B. Activations and Settles
 - C. Adjustments
 - D. EFT Settlement
 - E. Return Details
 - F. Settle Details
 - G. Retailer Financial Activity

APPENDIX E: STATEMENT OF NON-COLLUSION

This is to certify that the undersigned Vendor has neither directly nor indirectly, entered into any agreement, participated in any collusion nor otherwise taken any action in restraint of free competitive bidding in connection with this proposal submitted this date to the DSL.

NAME OF VENDOR _____

AUTHORIZED
REPRESENTATIVE _____

(Please type or print)

SIGNATURE _____

TITLE _____

Sworn to and subscribed before me this _____ day of _____, 2011.

NOTARY PUBLIC

My commission expires: _____